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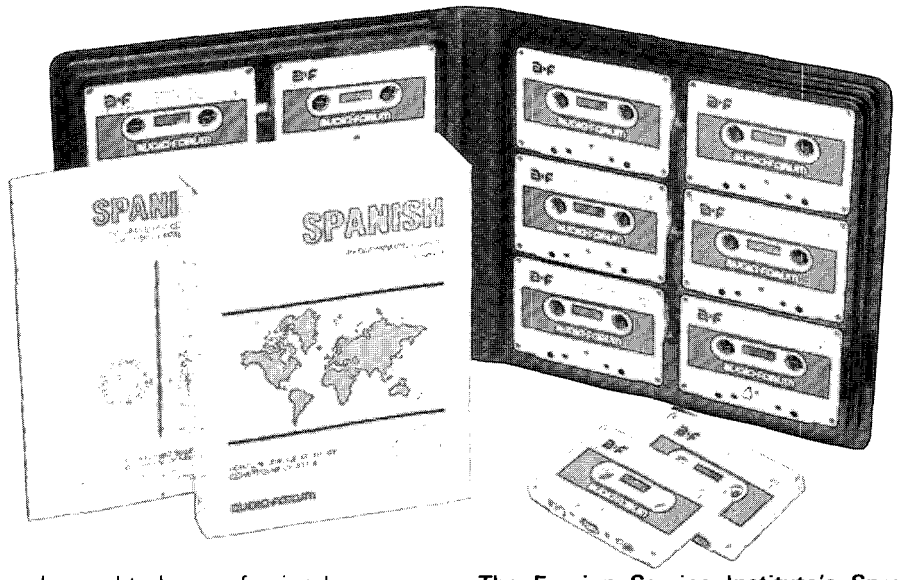

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Free Minds and Free Markets

January 1991/Vol. 22, No. 8

FEATURES

22
Closing the Net
Greg Costikyan
Will low-tech law enforcement officials delete the First Amendment?

28
Strength in Diversity
John Hood
There's no single recipe for educational success. Black private schools offer a cookbook.

35
Trade War
Michael McMenamin
Winston Churchill and Richard Gephardt debate protectionism.

EDITORIALS

4
Blind Trust
Virginia I. Postrel
The perils of introducing vague legislation.

6
Voter Revolt?
Rick Henderson
A post-election wrap-up.

8
The Gay Bar
Jacob Sullum
An old excuse for discrimination.

COLUMNS

40
Magazines: Poor Analysis
Martin Morse Wooster
Reforming welfare reform.

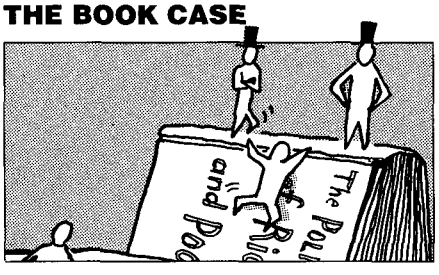
42
Mexico: Butter and Ballots
Julio Marquez
Perestroika without *glasnost*.

45
Art: Prisoner Exchange
James Bowman
Free Luther Campbell, jail Jenny Holzer!

47
Civil Rights: Testscam
Robert G. Holland
A new grading curve.

58
Selected Skirmishes: Child's Play
Thomas W. Hazlett
James Madison defends the Smurfs.

THE BOOK CASE



49
Our Country, Wrong and Right
John A. Barnes
The Politics of Rich and Poor: Wealth and the American Electorate in the Reagan Aftermath, by Kevin Phillips

Our Country: The Shaping of America from Roosevelt to Reagan, by Michael Barone

51
The Politics of Poverty
Lynn Scarlett
The New Wealth of Nations, by Guy Sorman

52
Lines of Duty
Jacob Sullum
Rush, by Kim Wozencraft

54
In a Word, No
Ben Wildavsky
A Future of Lousy Jobs?: The Changing Structure of U.S. Wages, edited by Gary Burtless

56
"No Place"–Like Homes
Paul Heyne
Voyages to Utopia: From Monastery to Commune—The Search for the Perfect Society in Modern Times, by William McCord

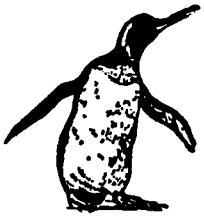
57
Brief Review
The Good, the Bad and the Famous, by Len Sherman

DEPARTMENTS

10
Letters

16
Trends

20
Brickbats



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BLIND TRUST

VIRGINIA I. POSTREL

The debate over a proposed law is usually simple. One side wants to ban smoking in restaurants. The other side doesn't. One side wants a higher sales tax. The other side doesn't. One side thinks a bill is good. The other side thinks it's bad.

Sometimes, however, the debate gets more complicated. The bill itself—what it says, what it would mean—becomes the issue. Its language is vague, or complicated, or both. In such cases, the debate changes from a discussion of issues to a competition for trust.

The bill's supporters argue both that it will right tremendous wrongs and that it will have little or no effect. Opponents, by contrast, construe its language in the broadest possible way and argue that it will have sweeping results but won't solve the problem. Proponents accuse opponents of exaggeration; opponents accuse proponents of hiding their intentions. Each side says the other is not to be trusted.

Take the Civil Rights Act of 1990. The bill itself was extremely technical, focusing on burdens of proof and other rules of litigation. It didn't say, "Employers shall adopt hiring quotas for racial minorities" or "Racial quotas are prohibited." Such clarity could never get out of committee.

As a result, the debate over the bill often sounded like a couple of bratty kids arguing: "It is a quota bill." "Is not." "Is so." "Is not." "Is so."

Not surprisingly, such vague bills are often crafted by people who can make a very intimidating claim to represent absolute virtue. "Trust us," the proponents say, "we're the good guys. You know that."

That's why most such bills fall into two good-guy categories: civil rights laws and environmental statutes. Slap one of those labels on a bill and it gets awfully hard to oppose in public.

The Americans with Disabilities Act is a particularly egregious example of vague legislation backed by peer pressure worthy of a junior-high clique. To question the ADA—even to ask for specifics—was to declare oneself an insensitive boor.

The ADA requires employers to make "reasonable accommodation" for disabled employees. But it does not define "reasonable." Under the ADA, I could, for instance, file an extremely credible suit against the Reason Foundation, demanding that it pay for my contact lenses, or at least glasses. I cannot do my job if I cannot see, and I cannot see without corrective lenses. Such lenses are inexpensive; I can afford them. But if I can afford them, can't my employer as well? Doesn't their very cheapness make them a "reasonable accommodation"?

I won't bring such a suit. But someone else eventually will. It will be only one of thousands of suits encouraged by the law's sweep and vagueness. Such litigation is the necessary byproduct of irresponsibly drafted, feel-good laws. Congress and the president get to declare that they've done good. Somebody else gets to decide what the law really means.

Then there are bills that aren't vague but are so complicated that not even their backers understand them. They ask not only the public but the legislators themselves to substitute trust for judgment.

The 1990 Clean Air Act is 1,110 pages long. It was passed by people who haven't the smoggiest idea what it means. Reports *National Journal*, "The legislation, with its often esoteric standards—for 'maximum achievable control technology,' for example—is so far-reaching and filled with scientific jargon that even the most knowledgeable Members were forced to rely on the few congressional aides who understood its details and its potential effect; on many occasions, a few senior lawmakers watched as aides crafted the language."

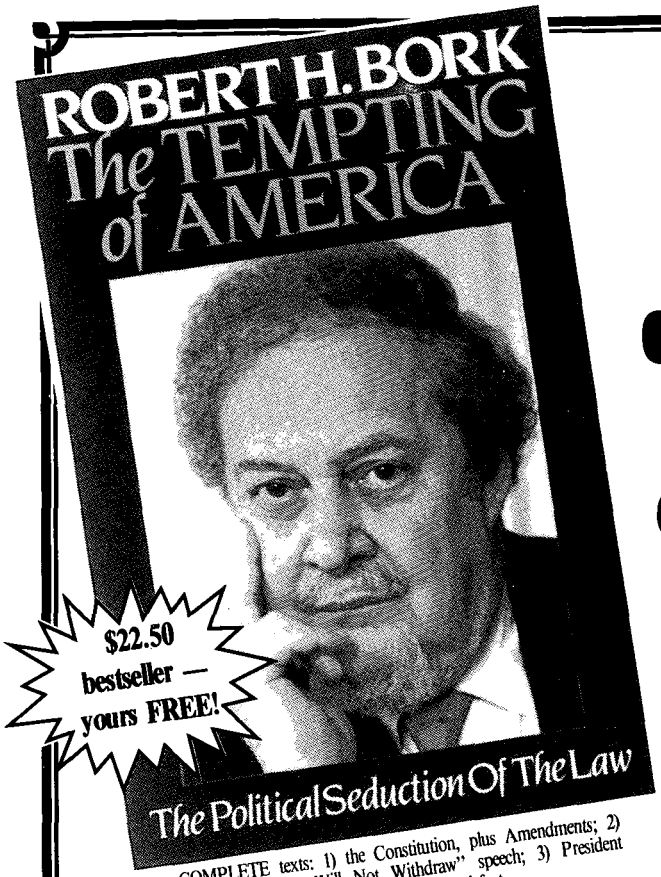
Sure, Congress can say it passed a law to clean the air. But executive-branch regulators must now spend months crafting rules to implement this massive law. Then private attorneys will spend years of billable hours to interpret and litigate those regulations. The actual cost of pollution-control equipment will be only a fraction of the total bill.

And that, it seems, is exactly how legislators want things. Leave the tough decisions to the bureaucrats and judges—they don't have to face reelection, or Ted Koppel.

Cowardice is one reason for "trust me" laws, but it isn't the only one. Passing a vague law can prove a very effective way to enact an otherwise unpopular agenda. That's why you won't find narrow interpretations actually written into law.

Understanding this, opponents equate a vague bill with a worst-case interpretation. Proponents respond by denouncing exaggeration and scare tactics. They may point to previous dire predictions that didn't come true.

If the bill passes, the two sides switch arguments. The bill's former proponents argue for the broadest construction possible—"it is a quota bill." The opponents argue for a narrow reading—"is not." Ultimately, the courts make the law.



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At first glance, the "trust me" strategy sounds brilliant: Write a vague or complicated bill that can be interpreted in a sweeping way. Tie it to a righteous cause. Equate doubting the bill with doubting the cause. Woo swing votes by arguing for a narrow reading. Get the bill passed. Then maneuver the regulations and courts to enact the broadest possible interpretation.

Problem is, this doesn't always work. Cases in point: the 1990 Civil Rights Act, California's Big Green environmental initiative, and the grandmama of them all, the Equal Rights Amendment.

To beat a vague bill, there first have to be people to challenge the bill's underlying agenda, to say the bill is not what it seems. They do not have to convince legislators or the public; they merely have to arouse doubt. Few people actually accepted Phyllis Schlafly's contention that the ERA would require unisex bathrooms. But that hypothetical did raise doubts that the ERA was as innocuous as its backers claimed. And since the amendment's most strident supporters did endorse sweeping changes in American society, extreme scenarios did seem possible if not likely.

Second, someone with political power has to be willing to oppose the seemingly unassailable. Supermajority requirements help. Legislators in conservative states could block the ERA. Republican senators could sustain Bush's Civil Rights Act veto.

In the case of a ballot initiative, summoning political courage is even easier. The ballot is secret. No one need know that you voted against the Sierra Club and in favor of the evil chemical companies. Big Green's surprise 2-to-1 defeat suggests that some Californians lied to pre-election pollsters.

It would be great if courts started to throw out vague laws. But the system is somewhat self-correcting. By refusing to say what they mean and forcing citizens to spend years in court, trust-me laws generate contempt for lawmakers. Ultimately, they erode the public trust that makes their passage possible.

VOTER REVOLT?

RICK HENDERSON

The ink has dried on the pundits' assessments of the recent elections. But there may be a few longer-term lessons we can glean from the November 6 ballot:

• *Honesty is the best policy.* Even in an environment that normally punishes adherence to principle, in this election the most blatantly hypocritical candidates took it on the chin.

Rep. Ron Dyson (D-Md.) became a born-again hawk, thanks to Saddam Hussein. But when Maryland voters found out that Dyson was a conscientious objector in the Vietnam years, he lost to a distinguished veteran.

In March, California gubernatorial candidate Dianne Feinstein noisily rejected negative campaigning. She then launched attack ads against Atty. Gen. John Van de Kamp and won her primary. During the fall campaign, Feinstein took the ultimate cheap shot—portraying Sen. Pete Wilson as a sedated buffoon when he virtually voted from his hospital bed just following an emergency appendectomy.

Feinstein also flip-flopped on the Big Green environmental initiative—attacking the measure until Earth Day, then acting as if she had authored it—and on job quotas for government employees; California voters remembered both of her faces.

Jesse Helms didn't win his fourth Senate term with Bubba's vote alone (even though his legitimate campaign against racial quotas assured him of every racist vote in North Carolina); he won by accurately portraying media darling Harvey Gantt as a glutton for political pork. Gantt used government programs to get rich by obtaining a broadcasting license and building contracts. Gantt's campaign claimed he could "make government work." Helms agreed: Harvey Gantt could make government work—for Harvey Gantt. Early on, urban, middle-class voters fled from Helms. But by tying Gantt to corruption, Helms cruised to victory, ending up with 46 percent of upwardly mobile Tar Heel votes.

• *Listen to the home folks.* As Tip O'Neill said, all politics is local. Fixation on the Beltway nearly cost Newt Gingrich and Bill Bradley their jobs. Massachusetts voters derailed John Silber's express train to Pennsylvania Ave.

And in North Carolina, when Helms ran his campaign from Washington, Gantt surged ahead. Once Helms focused on his formidable local constituency, Gantt was a goner.

Abortion, the S&L scandal, and other national issues had little impact on the vote—unless they were tied to specific candidates. Rep. Chip Pashayan (R-Calif.) took campaign contributions from Charles Keating and lost. Massachusetts elected a pro-choice Republican governor; Kansas, a pro-life Democrat. But neither campaign focused on abortion.

Election reform? In Florida, Lawton Chiles tells the media he squeaked past Gov. Bob Martinez because he refused campaign contributions larger than $100; Chiles might even believe it. But as Fred Barnes noted in *The New Republic*, Chiles is a statewide hero. And in 1987, Martinez backed an unpopular services tax that lowered his favorable rating to 15 percent. It's a miracle Martinez was close.

• *If there's a huge constituency calling for activist government, it didn't vote on November 6.* Nowhere was this more true than in California, where most of the 25 ballot initiatives that promised to increase government power went down in flames.

Big Green lost 2 to 1, getting only 34 percent of the vote. Two other environmental measures garnered less than 40 percent each. Voters approved only 3 of 20 other initiatives calling for new taxes or government bonds. Yet last June, all the bond issues on the primary ballot

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THE NEW REPUBLIC

(raising a total of $5.1 billion) passed.

And while Californians had two chances to enact term limits for the state's elected officials, they rejected the initiative authorizing taxpayer-financed elections. Instead they chose a tougher measure that limited terms, cut legislators' hefty pensions, and slashed legislative staff budgets.

The tax revolt isn't dead, either. Nationwide, tax-limiting initiatives fared poorly. But incumbent governors in Nebraska, Kansas, and Florida lost largely because they approved unpopular tax increases. Bill Bradley nearly lost because he wouldn't defend his popular 1986 tax reforms or attack tax-hiking Gov. Jim Florio. Republicans pledged to slash spending in Massachusetts; not only did William Weld defeat John Silber, but the GOP fell only five seats short of a majority in the state legislature.

• *Nobody's found the "vision thing" yet.* The fair-haired Democrats don't have it. Voters realize that "tax the rich" eventually means "tax everybody."

The GOP is empty-handed as well. Republicans say they're different from Democrats. And some individual Republicans push their own initiatives—Jack Kemp's tenant ownership of public housing, Chris Cox's budget overhaul, John Porter's Social Security reform—but no one has articulated a sweeping plan to cut taxes, reduce spending, deregulate, and privatize. The bully pulpit is vacant.

The Democrats could step into this void before the 1992 presidential election. Al From of the moderate Democratic Leadership Council says that his party must "pick a candidate who is on the side of expanding opportunity and not the side of feeding government." Are you listening, Bill Bradley?

One universal bit of punditry is on target: People are disgusted with government in general. Only 36 percent of eligible voters went to the polls, a 50-year low. But if you plan to run in 1992 and interpret this dissatisfaction as a call for new government programs, here's some advice: Don't quit your day job. ◼

THE GAY BAR

JACOB SULLUM

The U.S. Army has long justified its exclusion of homosexuals as necessary to maintain military effectiveness. At the same time, however, it has implicitly acknowledged that this is a crock.

The case of former Sgt. Perry J. Watkins spotlights the Army's hypocrisy. In November, the Supreme Court let stand a 1989 decision by the U.S. Court of Appeals for the Ninth Circuit allowing Watkins, an avowed homosexual, to return to the Army. Watkins joined the service in 1967 and was open about his sexual preference throughout his 14-year career. The Army nevertheless promoted him, gave him "secret" security clearance, and allowed him to re-enlist three times.

By all accounts, Watkins was an excellent soldier; he received a perfect score on his most recent evaluation. His superiors have testified that his homosexuality was well known and caused no problems. Yet in 1982 the Army refused to let him re-enlist, citing his sexual preference.

In *Watkins* v. *U.S. Army*, a three-judge panel of the Ninth Circuit Court initially found the Army's exclusion of gays unconstitutional on equal-protection grounds, but the full court later substituted a much narrower ruling. Even so, the case provides a compelling argument for the Army to reverse an unjust and irrational policy.

By retaining, praising, and rewarding soldiers such as Watkins, the Army tacitly admits that sexual orientation has no bearing on individual ability or performance. To exclude candidates on this basis therefore cheats taxpayers by impairing the Army's ability to field the best possible soldiers and defend the country effectively. Furthermore, it involves government in a debate in which it has no business. As the first *Watkins* decision notes, "the Army believes that its ban against homosexuals simply codifies society's moral consensus that homosexuality is evil."

The Army also presents practical arguments, however. It maintains that the presence of gays in the ranks fosters tension, undermines morale and discipline, creates security risks, hurts the Army's public image, and impedes its recruitment efforts. If so, we must choose between a perpetually shaky national defense, leaving the whole country at risk, and occasional unfairness to individuals such as Watkins.

But this is a false dilemma. The Army can regulate actual sexual conduct without regard to preference, which the rules now target. The experience of Watkins and other openly gay soldiers shows that homosexuals can command respect and get along with both subordinates and superiors, precisely because a soldier's professional abilities have nothing to do with his or her sexuality. Far from harming the Army's ability to attract new soldiers, Watkins's sterling record would be fitting material for a recruitment commercial. Moreover, the Army's current policy actually increases the potential for security breaches by encouraging homosexual soldiers to keep their orientation secret, leaving them vulnerable to blackmail.

The Army's appeal to the prejudices of others to justify its own invidious discrimination has a familiar ring to it. A government history of World War II explains that, before it became the nation's leading example of successful racial integration, the Army "took the position that it was operating within a social framework which it did not create and which it did not have the power to alter in any significant manner." The top brass argued that "experiments within the Army in the solution of social problems are fraught with danger to efficiency, discipline and morale." In this environmentally conscious age, it's nice to know that even excuses can be recycled. ◼

"We are made wise not by the recollections of our past but by the responsibility for our future!"

—George Bernard Shaw

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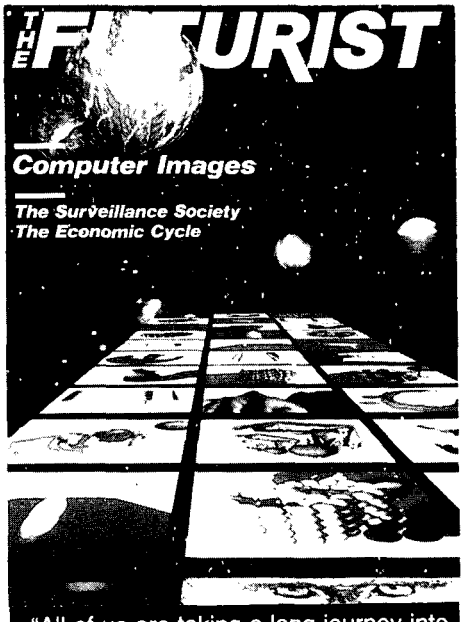

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LETTERS

The First Freedom

Charles Oliver has done a splendid job in unmasking the ideological pretensions of the ACLU ("The First Shall Be Last?," Oct.). All organizations are guilty of at least some inconsistencies, but what is most troublesome about the ACLU is its persistent use of state power to advance the goal of social equality against the rights of the individual. Restrictions on freedom of contract, rent control, affirmative action, busing, union shops, federally funded day care, comparable worth, etc., receive the support of the ACLU precisely because they service social equality, not civil liberties. Roger Baldwin, the founder of the ACLU, made clear the organization's mission, when in 1934 he declared, "civil liberties, like democracy, are useful only as tools for social change."

Regarding the ACLU's failure to defend anti-abortion protesters from prosecution under RICO statutes in Pennsylvania, it is not quite accurate to say that the ACLU refused to get involved. The Philadelphia affiliate filed an amicus brief on behalf of the plaintiff abortion clinic suing the protesters under the RICO statute. Furthermore, while the ACLU says it opposes using RICO statutes against those who practice civil disobedience, it is also true that in 1986 the ACLU released a booklet ("Preserving the Right to Choose") urging the affiliates to use RICO statutes against anti-abortion protesters.

In short, it is politics, not principle, that typically guides the thinking of the ACLU.

William A. Donohue
Dept. of Sociology
La Roche College
Pittsburgh, PA

Prof. Donohue is the author of The Politics of the ACLU.*—Eds.*

CONGRATULATIONS TO Charles Oliver for revealing that, unfortunately, George Bush was right about the ACLU.

Bush, during the 1988 presidential campaign, accused the ACLU of having a liberal agenda. When asked to respond, those of us who worked for the organization at the time smiled for the cameras, shook our heads, and spewed forth the party-line answer: "Gee, the ACLU is neither conservative nor liberal; we're just an organization that works to protect constitutional rights." When I said those words, I knew I was lying.

Many of us in the "strict-constructionist" minority of the ACLU hoped that the Bush attacks would help drive the group back toward its original mission—protecting civil liberties—and steer it away from the liberal issues it increasingly embraced. Sadly, any change was fleeting at best.

"Workers' rights," economic entitlements, and silencing racists *are* left-wing goals and *are not* civil liberties issues. Many ACLU activists would respond—and I have heard this argument often—that "civil liberties are what the ACLU says they are." Following this logic, any issue can be a civil liberties issue. (No kidding, I've heard seemingly intelligent ACLUers argue that nuclear disarmament and cleaning up ground water pollution are civil liberties concerns.)

I have just renewed my membership despite the ACLU's recent history. I plan to continue working within the organization to try to return it to its original mission. Frankly, I fear it may be too late.

Mark Lambert
Des Moines, IA

Mr. Lambert is former legislative director of the Iowa Civil Liberties Union.—Eds.

CHARLES OLIVER FURTHER documents what should have long been clear to all observers: The ACLU travels under

LETTERS

false colors. Since the ACLU was founded by former communists and fellow travelers and led and dominated by socialists, it's hardly surprising that its objective is not the advancement of civil liberty, protection of the individual from the state, but its opposite, coercion of the individual by the state in the interest of economic equality. That the ACLU is not libertarian but simply leftist is clearly shown by its support and use of race and sex quotas and support of "comparable worth"—apart from its uniform and unwavering support of *all* leftist causes.

Of course it is the ACLU that brings most abortion litigation—why is not infanticide, too, a civil liberties issue?—as it brings most litigation attacking traditional sexual mores and public support or recognition of religion. What is it, I wonder, about Ira Glasser and Norman Dorsen that makes these endeavors seem right and natural to them? Their actions undermine the family and therefore—like the ACLU's opposition to effective enforcement of the criminal law—threaten the viability of American society. Alan Dershowitz supports the ACLU, as he has for 25 years, he tells us, because it "still does some good." It has indeed done much good for *Penthouse*, which employs Dershowitz as a columnist, but it has done the opposite of good for the American attempt to maintain a prosperous, secure, self-governing society.

Parenthetically, would you print "john powell's" name backwards and upside down, as well as without initial capital letters, if he told you that's how he spells it? Powell may have need to establish his revolutionary credentials at the ACLU, but your ready acquiescence in his war on standards, even the English language, leaves you in no position to criticize the ACLU.

Lino A. Graglia
School of Law
University of Texas
Austin, TX

REASON *decided that the way john powell spells his name provides readers with information about his character. To change it would make him appear more conventional than he is.—Eds.*

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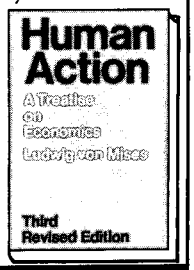

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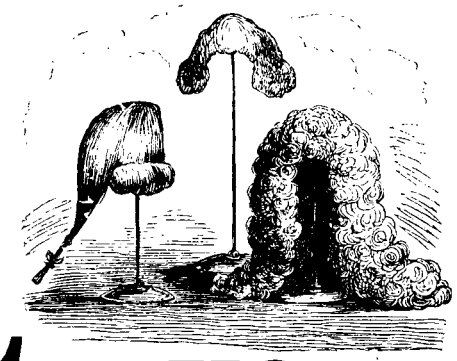

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LETTERS

YOUR ARTICLE LEFT OUT two glaring examples of liberal bias. The First Amendment covers more than just Nazis, communists, racists, and offbeat poets—what about those wishing to engage in commercial free speech? How about bothersome zoning or sign-code regulations aimed at small merchants who can't afford $500,000 for 30 seconds of air time during the Super Bowl and who must settle for a sandwich board advertising their business? And what about those warning labels on cigarettes and liquor? Or the outright banning of cigarette advertising on TV? What's next—beer commercials? How about restricting ads for the swimsuit issue of *Sports Illustrated* or *Playboy*?

I'll go Oliver one better if we're counting amendments—what happened to the Second Amendment? Why isn't the ACLU defending gun enthusiasts from the predatory whims of the Bureau of Alcohol, Tobacco, and Firearms?

Despite the liberal bias, I'm renewing my dues. If anything, the sad state of our Bill of Rights is reason enough to hope that some of those liberals get "gently" mugged, get fined by a bureaucrat, or do something in violation of community standards.

Conrad F. Goeringer
Tucson, AZ

I RESIGNED FROM THE ACLU in 1984 over the Walter Palovchak case, and they never acknowledged my letter on that subject.

Some of us would differ, however, with Oliver's political terminology. Western Goals was a John Birch Society front group and therefore hardly a "conservative" organization; hard-right or extreme-right would be a better description.

John George
Dept. of Political Science
Central State University
Edmond, OK

IT SEEMS TO ME that the ACLU actually sold out years ago, when it bowed, groveled, and humbly asked forgiveness of our Marxist-Leninists for booting them out of the organization. The temporary divorce occurred about the time that Henry Wallace ran for president in 1948. While the ACLU later reinstated communists to full membership, complete with apologies for having fallen victim to Cold War hysteria, the ACLU has yet to explain to my satisfaction when and under what circumstances a Marxist-Leninist would go to the barricades in defense of the civil liberties of a conservative or a libertarian.

Irving L. Jacobs
National City, CA

CHARLES OLIVER'S EXCELLENT article provides a clear and comprehensive explanation of how changes in basic policy and membership recruitment have converted the ACLU from a defender of First Amendment rights to an arm of the liberal political establishment.

But I disagree with the author's apparent view that the right of free expression is somehow violated by colleges and universities that attempt "to ban sexually or racially insensitive speech on their campuses." The right of free speech does not require that anyone be forced to listen, nor does it require that anyone be compelled to provide the means or place of delivery (lecture platforms, college newspapers, dormitories, or whatever). The right of free speech simply bars interference with a speaker using his own property or property access granted to him by others. Under the rights of property, contract, and free association, colleges and universities, as well as anyone else, must be left completely free to determine the conditions under which they will allow others to use their property or otherwise interact with them; and this may include restrictions on speech, dress, or other aspects of behavior. Prospective students, faculty, employees, etc., may decline to be associated with such institutions because of their restrictions. But it appears that the ACLU has been on the right side for the wrong reasons.

By the same argument, a respect for the right of free expression did not require the city of Skokie, Illinois, to turn over its streets (designed for the purpose of transportation) for a demonstration by a band of Nazis.

The issue of property rights is, of course, complicated by the notion of public ownership in the case of taxpayer-supported streets and schools, especially where those in charge grant access to some political groups while denying it to others. But for privately owned schools, businesses, etc., the issue is clear: All persons have an absolute right to associate (or not associate) with whomever they please, on whatever basis to which they can *voluntarily* agree. In short, a right is not violated if it is surrendered voluntarily (in this example, for the privilege of attending a particular university).

Joseph Curran
Daly City, CA

AS A 30-YEAR ACLU MEMBER, I can vouch for the problems Charles Oliver describes. One item not mentioned, perhaps for fear of sounding conspiratorial, is the deliberate infiltration of the ACLU by leftist ideologues. For example, for years the hard-leftist National Lawyers Guild has encouraged its members to become active in the ACLU. In the Atlanta affiliate, for example, NLG members once comprised a majority of its board; the NLG is quite influential in a number of other affiliates.

Personally, I think the ACLU is simply too far gone to be rehabilitated. I remain a member because it occasionally comes through in a free speech case. I would jump ship in a minute if an "American First Amendment Union" came along, and I suspect a large number of ACLU members would join me.

Laird Wilcox
Editor
Civil Liberties Review
Olathe, KS

MUST THE ACLU DECIDE everything in a courtroom and/or through another unneeded law? Have the ACLU and similar groups lost the capacity to educate and thereby obtain a lasting majority in thought and behavior?

A fundamental aim of the First

Amendment is that of encouraging public discussion and debate, thus testing ideas. Those that are worthy survive. General suppression and oppression through legislation are thereby avoided—for every law represents a degree of loss in freedom. A genuine understanding of individual rights and freedom recognizes this.

The First Amendment must be preserved intact, and exercised fully and freely, for and by all Americans. Else, totalitarianism is upon us, and freedom and liberty are lost.

Paul R. Mobley
Cynthiana, KY

AFTER MANY YEARS and with a deep sense of loss, I withdrew my membership from the ACLU for many of the reasons Charles Oliver covered in his article.

As are many others, I am concerned that there is declining awareness of the erosion of civil liberties which are protected by the Constitution, and which the ACLU once defended so admirably.

Civil liberties—restraints on government—are now lost in the pot of civil rights, sustained by liberals and conservatives as economic rights to increase political dependence of individuals upon a growing paternalistic bureaucracy.

Committed to civil liberties in the public interest, I looked around for an organization to replace the ACLU and finally found the Center for Constitutional Rights.

Betty Ann Laws
Muncie, IN

Defending Whose Interests?

Jacob Sullum's apology for the American intervention in the Persian Gulf ("Engulfed," Oct.) shamefully evades the real purpose of the U.S. action. Contrary to what Sullum says, the danger to Americans did not precede, but was rather the result of, the U.S. intervention. Saddam Hussein had no reason to mistreat American citizens or businesses until the U.S. government threatened him with an embargo and with military intervention.

As Sullum notes, past U.S. acquiescence in repeated aggressions by states in the Mideast (Syria, Israel, and Iraq itself) shows that the U.S. claim to be nobly fighting aggression is a lie. Similarly, our coziness with those nations that have repeatedly jacked up the price of oil (Saudi Arabia, the Shah's Iran, and Kuwait itself) puts the lie to the "oil excuse."

The real purpose of the U.S. muscle flexing was to raise George Bush's sagging opinion polls and also to head off any attempts to use the "peace dividend" as a reason for cutting federal taxes and military spending. The war hysteria has conveniently diverted attention from the S&L scandal, the budget deficit, and

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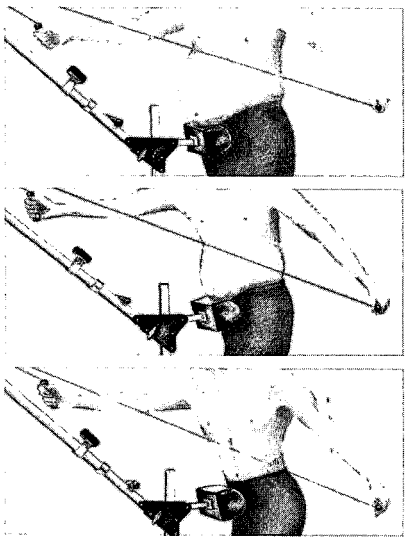

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LETTERS

George Bush's breaking of his "Read my lips—no new taxes" pledge.

The barbarity of the U.S. government is especially clear in its attempt to prevent food and medical supplies from reaching the innocent civilians of Iraq. (The embargo is an act of war which, under the U.S. Constitution, requires a declaration of war by the Congress.)

The thuggery of Saddam Hussein is no excuse for the militaristic thuggery of George Bush. The crisis in the gulf clearly draws the line between libertarians who wish to reduce government and respect the individual rights of people of all nations and jingoistic conservatives such as Sullum who offer specious arguments for maintaining the garrison state.

David H. Miller
Sacramento, CA

PEOPLE FEARFUL OF government power play with fire when they call for U.S. foreign policy to protect Americans abroad. That is a recipe for habitual intervention and disaster, whether they intend it or not. Americans are everywhere in the world, and there is nothing easier for the government to do than create a provocation. Remember the *Maine*!

Prudent-sounding caveats intended to limit the government to *real* dangers aren't worth the paper they're written on. Libertarians won't be making the decisions. Special interests and their agents will be. Foreign policy is the most private function of government. The executive branch can do pretty much what it wants, and the people don't know what is going on until it is too late.

When prescribing a policy, we cannot—we must not—assume that the standards of limited government will be controlling. If we do, we will get just what we deserve. A better rule is to choose a policy as though the worst will carry it out. They will.

Sheldon L. Richman
Woodbridge, VA

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The Price of Donations

"Spare Parts," by Ronald Bailey (Aug./Sept.), pointed to the severe shortage of donor organs for transplantation in the United States. This problem is getting worse instead of better. In 1989, the national transplant waiting list increased from 16,035 names on January 1 to 19,173 on December 31. In most businesses, increasing the number of customers who want your service normally means increased success. However, in transplantation, such increased demand means failure, since more patients must wait. There are too few organ donors to meet the needs of those waiting.

This is not a mere inconvenience—1,878 people died waiting for organ transplants in 1989. Life-saving and health-restoring organ transplants succeed in 85 percent of cases with today's technology and medical treatment; nearly 1,600 people who died waiting for donated organs would still be alive today leading useful and productive lives.

By all accounts, the problem is even worse today. Donations are not only failing to keep up with the increased demand—they actually decreased by 10 percent in 1989, and the situation may deteriorate.

The United States Congress (by law) and our professional societies (by philosophy) have opposed payment for donor organs. There is, however, the possibility that a death benefit paid to the surviving family member might improve the consent rate for organ donation. Only 50 percent of medically suitable donors referred to an organ recovery agency currently provide consent. Far more potential donors are never referred.

While efforts to improve public and professional education must continue, such efforts have an impact over the longer term. A death benefit payment might immediately raise the consent rate.

Increasing the consent rate to 75 percent would raise the number of organ donors by 50 percent.

More organs can be obtained from living donors. Live donors should be compensated for expenses, time lost from work, and for the various inconveniences experienced during the evaluation, surgery, and recovery process. Recipients concerned about the costs of compensation should note that the savings in dialysis costs alone would more than cover the potential expense.

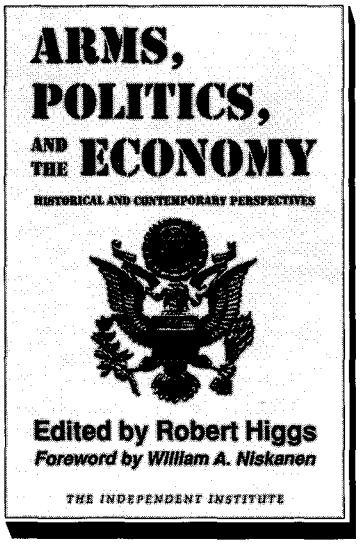
The Health Care Finance Administration reports that the United States now spends several billions of dollars per year on the end-stage renal disease program. Removing 5,000 more dialysis patients from that expensive treatment method with successful transplants would save about $125 million for each year the organs functioned beyond the first post-transplant year (the first year is roughly a trade-off).

A pilot project would sufficiently answer whether moderate reimbursement can increase cadaveric and live-donor organ recovery. For those concerned about favoring the rich over the poor or other ethical questions, remember that the consent rates for organ donation are the worst among the poor, who also have the highest incidence of diseases that can be cured by transplant. Would the very poorest be more inclined to donate if they received compensation? Would more poor patients benefit from having access to these donated organs? Wouldn't the poor and rich benefit, and wouldn't society as a whole be better off?

Trial programs that provide death benefit payments can answer these questions. The prevailing wisdom claims that compensating organ donors is evil. If a carefully designed and scientifically supervised trial-payment program increases the rate of donation, a national organ recovery program could save thousands among us who now perish needlessly.

Jimmy A. Light, M.D.
Director, Transplantation Services
Washington Hospital Center
Washington, DC

THE POLITICS OF DEFENSE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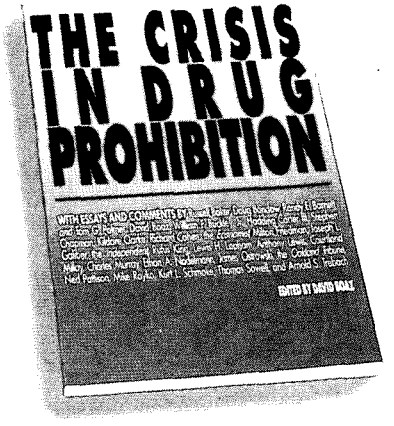

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TRENDS

Chilling Effect

Some people want to be buried when they go. Others prefer cremation. Still others choose to be frozen, in the hope that medical science will one day be able to revive them and repair their bodies.

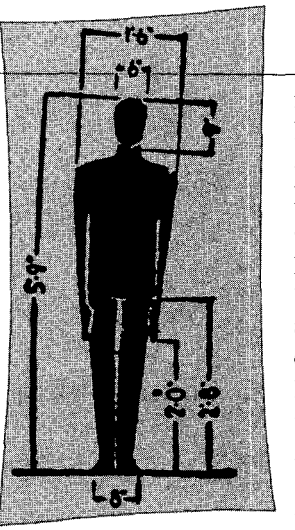
Unlike the more conventional alternatives, that choice receives only limited protection under the law. Last fall, proponents of the right to be frozen, or "cryonically suspended," suffered a setback and then won a victory in California's courts.

In September, Superior Court Judge Ronald C. Stevens refused to enjoin state Attorney General John Van de Kamp and Santa Barbara County District Attorney Thomas Sneddon from prosecuting members of the Riverside-based Alcor Life Extension Foundation for suspending a Sunnyvale mathematician with a terminal brain tumor. Thomas Donaldson wants to have his head removed and preserved with liquid nitrogen before cancer destroys his brain.

Both California's courts and the U.S. Supreme Court, most recently in *Cruzan v. Missouri*, have recognized the right of a terminally ill patient to have his or her feeding tube disconnected. Donaldson's attorneys argued that there is no logical distinction between such suicide by starvation and the assisted death of a person who undergoes cryonic suspension while still alive.

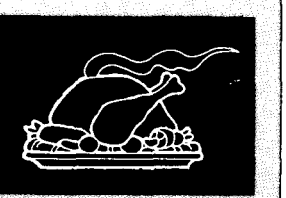
"There is ample authority for the right of a person who is terminally ill to put an end to his suffering and have the assistance of others in doing so," attorney David Epstein wrote. "The only material distinction between lawful assistance and murder is plaintiff's consent."

But Stevens declined to draw this conclusion, which he said involved "a giant step" from existing case law. He said the cryonics movement would have to seek a legislative exemption rather than judicial protection. Donaldson plans to appeal.



Although the courts have not recognized a constitutional right to be suspended while alive—which members of the movement believe increases the chances for revival—a decision in October reinforced the right to have one's body frozen after death. Superior Court Judge Arelio Munoz ruled that the state Department of Health Services may not withhold death certificates and body-disposition permits from organizations such as Alcor. Munoz said people have a right to dispose of their remains however they choose. So the courts (in California, at least) are sending a simple message to people who seek the right to do what they want with their own bodies: Dropdead. —*Jacob Sullum*

Holiday Health



Environmentalists tell all sorts of horror stories about manmade chemicals in our food. But, in fact, everything we eat is full of *naturally occurring* carcinogens, mutagens, and toxins. We regularly consume 10,000 times more natural toxins than manmade ones without ill effects. So maybe the hysteria about chemicals is overblown.

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Carrots . . . . . *carotatoxin, myristicin, isoflavones, nitrate*

Celery . . . . . *nitrate, psoralens*

Entrees

Roast Turkey . . . . *heterocyclic amines, malonaldenyde*

Stuffing . . . . . *benzo(a)pyrene, di- and tri-sulfides, ethyl carbamate, furan derivatives, dihydrazines, psoralens, safrole*

Cranberry Sauce . . . *eugenol, furan derivatives*

Vegetables

Lima Beans . . . . . *cyanogenetic glycosides*

Baked Potato . . . . *amylase inhibitors, arsenic, chaconine, isoflavones, nitrate, oxalic acid, solanine*

Dessert

Apple Pie . . . . . *acetaldehyde, isoflavones, phlorizin, quercetin glycosides, safrole*

Beverage

Tea . . . . . *benzo(a)pyrene, caffeine, quercetin glycosides, tannins*

Source: American Council on Science and Health

Growing Pains

Is urban congestion completely out of control? Will our highways soon face 24-hour gridlock? A two-day September conference on urban growth issues, sponsored by the Reason Foundation addressed these questions and more. The participants challenged a number of myths about traffic congestion and the role of government planning in alleviating the mess.

Peter Gordon, a professor of planning and economics at the University of Southern California, noted that the national median travel distance from home to office is six miles—a figure that has not changed since the 1960s. And from 1980 to 1985, in the top 20 U.S. metropolitan areas, average drive time remained constant or dropped. Gordon concluded that the marketplace has responded to commuters: Industry has followed the labor force into the suburbs.

Even as commute times remain constant, congestion has spread over larger areas. A major reason: Trips not involving home-to-office commutes increasingly clog traffic arteries at peak times. Reason Foundation President Robert W. Poole, Jr., cited studies showing that nonwork trips constitute half the driving during the morning rush hour and two-thirds of the trips during the afternoon rush. Poole made the case for congestion pricing—charging motorists for highway use during peak times. Rush-hour fees would encourage motorists to carpool or to take discretionary trips at less-congested times.

Demonstration projects in Dallas and Singapore show that peak-hour pricing indeed reduces traffic congestion, Poole noted. Two scheduled private toll road projects in Orange County, California, will base rates on congestion-pricing standards.

While conference attendees representing government agencies and environmental groups wouldn't uniformly endorse free-market policies, all agreed that incentives could replace more coercive measures and positively influence the behavior of motorists.

—Rick Henderson

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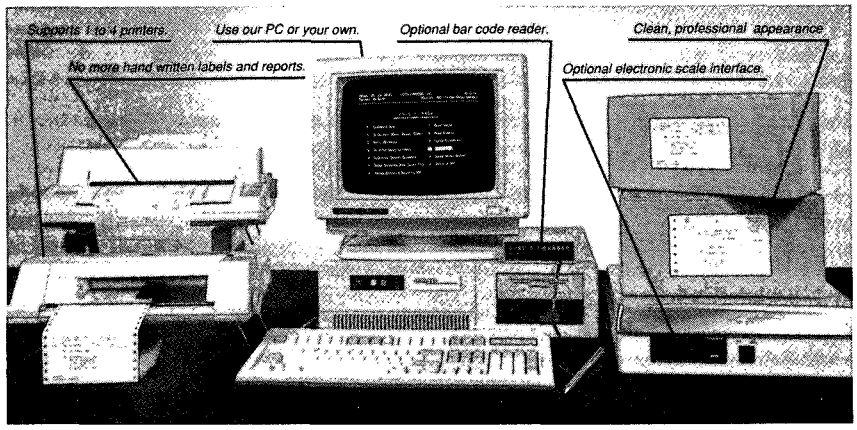
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BALANCE SHEET

Assets

Lint Trap. The House sustains President Bush's textile-bill veto. (See "Wooly Bullies," Dec. 1990.) Negotiations with Mexico on a free-trade bill move ahead. "Competitive" nations no longer manage trade—they work out free-trade pacts. Another victory for Cobden and Bright.

Pinching Poachers. Despite the international trade ban on ivory (or perhaps because of it), poaching remains a problem. (See Trends, Feb. 1990.) Scientists from the United States and South Africa have now developed an isotope-tracing method that pinpoints where a piece of ivory comes from—legal elephant kills or poachers. Isotope tracing will nail poachers and still permit a legal ivory trade. The African nations that still trade tusks may set up an independent agency to certify ivory before they sell it.

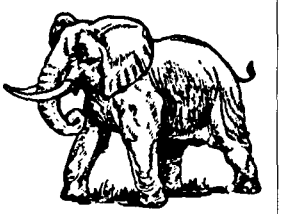


Photo Finish. A Cincinnati jury acquits museum director Dennis Barrie in the Mapplethorpe case. Jurors consider the explicit photographs "art" deserving constitutional protection. The real issue is: Can a private museum (such as the Contemporary Arts Center) show whatever will attract patrons? We'll need another court case to find out.

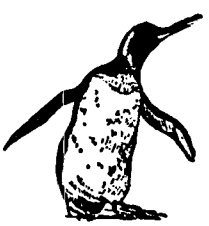
Hip Readers. Through all the bungled budget compromises, George Bush provides a true national service: He shows that, in a pinch, pragmatism loses to principles (even bad ones). This lesson won't help the rudderless president. He will probably face a tax-cutting challenger from the GOP in '92. And President James A. Baker III? Forget it.

Liabilities

Jealous Zealots. Urgh! Left-liberalism, with green eyes blazing, is back. (Some say it never went away.) Excellence and economic growth are out, rich bashing and "fairness" are in. Tax-reform architect Dick Gephardt now rages about the excesses of the '80s. Bob Kuttner claims we can balance the budget by confiscating "all the private wealth of the richest Americans outright." Want some malaise on that sandwich?

Breathless. California's Air Resources Board adopts the toughest auto-emissions standards in the world. Relying heavily on alternative fuels and electric cars, the rules will line the ARB's pockets but have little impact on air quality. (See "Going Mobile," Aug./Sept. 1990.) These regulations (and the bureaucrats to enforce them) will be coming soon to an air basin near you.

Bracket Creeps. The most important tax reform of the '80s was indexing, which kept those sneaky feds from raising everyone's taxes by inflating the currency. To raise revenues, the Democrat-sponsored House budget package suspends indexing for one year. The House-Senate conference may dump the proposal. But if Congress can vote for it once, it can do so again. And you thought the Democrats wanted to soak only the rich.



Oily Conservationists. The $2 billion Exxon spent to clean up Prince William Sound proves insufficient. The state of Alaska and the Department of the Interior are suing Exxon. To help estimate how many animals were killed by the *Valdez* spill, government agencies spent $600,000 to kill several hundred birds—along with river otters, deer, and other mammals. If Exxon loses in court, where will damage money go? To preserve wildlife in Alaska.

—Rick Henderson

Wasted Again

In a March 1990 speech in Los Angeles, World Bank President Barber Conable said: "Fighting poverty is at the very heart of [the bank's] mission." A new report by the Cato Institute contends that the only poverty the bank alleviates is that of its own staff.

Study author Michael H.K. Irwin, the bank's former health services director, reports that in 1987 the agency undertook a "corporate-style reorganization" to trim bureaucratic fat. At that time, it had 6,150 regular staff members and an administrative budget of $816 million. The bank

World Bank President Barber Conable: His staff avoids poverty, but what about the poor in developing countries?

then terminated 498 employees. But it paid each of them from $134,000 to $291,000 to depart.

Today, the bank has 6,100 on staff and an annual budget of $900 million. Irwin says the budget will balloon to $1 billion this year.

Not only do staff members receive hefty, tax-free salaries, but they also get lots of other perks: salary supplements for spouses and children, education grants, first-class airfare, and all-expenses-paid stays in luxury hotels.

Mention this opulence to World Bank staff members—or try to save the agency money—and they get pretty testy. Irwin writes that when he flew to Africa in business class rather than first class, he received "considerable internal criticism—from the Staff Association, Senior Vice President Ernest Stern, and many individuals." A staff physician claimed that if other bank employees surrendered first-class travel privileges, "a modest in-

crease in the numbers of post mission travel induced strokes among our more elderly frequent travelers" might follow.

Irwin's report highlights an agency almost paranoid about public scrutiny: His former department had three document shredders for its 30-member staff. When *Reader's Digest* wanted to reprint an article from REASON exposing mismanagement in World Bank development programs, Francisco Aguirre-Sacasa, former director of external affairs, says that the bank tried to prevent the reprint from being published. (See "Inside the World Bank," June 1989.)

Irwin calls the World Bank hypocritical for prescribing austerity to developing countries while generating so much internal waste. He concludes that the bank's own operations "raise serious questions about whether the United States or any other Western nation should give the institution another dime."

—Rick Henderson

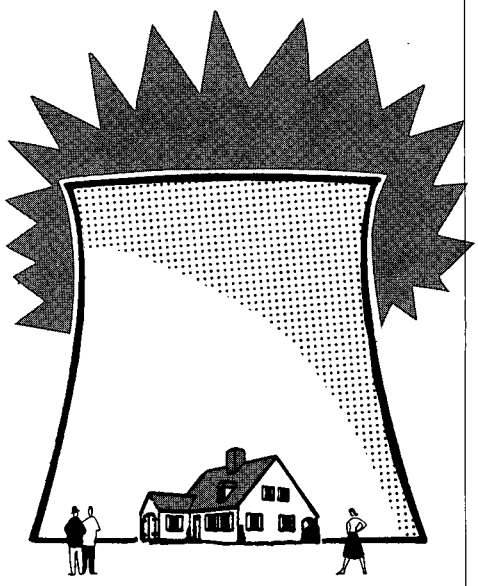
Risk-free Radiation

A two-year study by the National Cancer Institute has found no evidence of any increase in cancer rates in U.S. counties containing nuclear facilities.

The study is the most comprehensive of its kind ever conducted. The NCI evaluated the data on mortality from 16 types of cancer in the counties surrounding the nation's 62 major nuclear facilities.

Overall, cancer mortality was no higher in the study counties than in a control group of similar counties without nuclear facilities. Indeed, the mortality risk from leukemia—which has a short latency period—was actually lower in the counties with nuclear facilities.

The NCI released its study shortly after Columbia University researchers



announced that they had found no evidence of increased cancer incidence in persons living near the Three Mile Island nuclear facility.

—Charles Oliver

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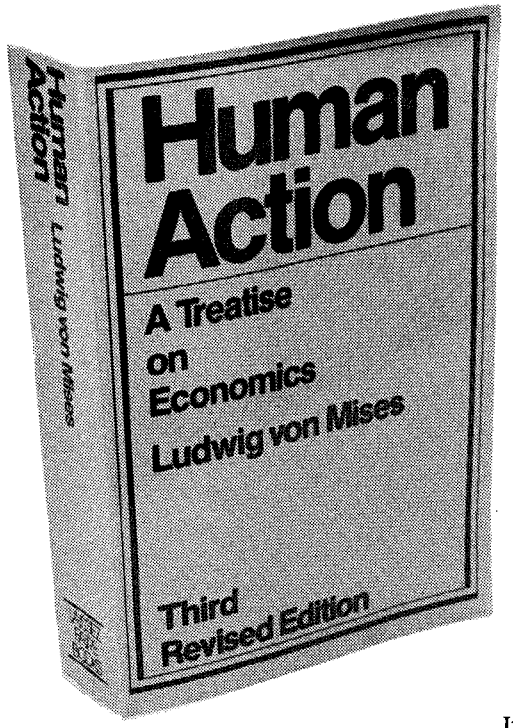

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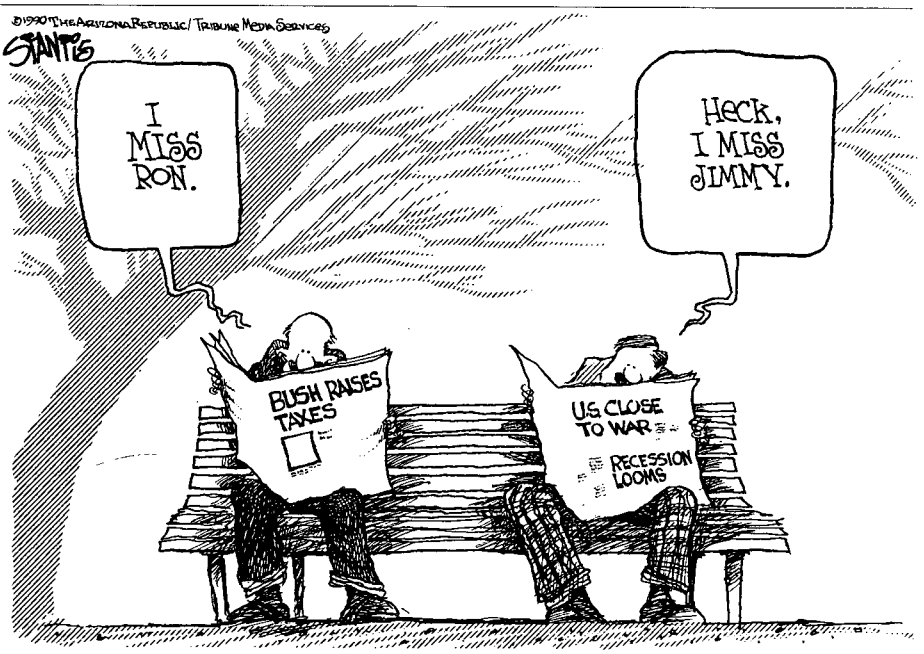
BRICKBATS

In Atlanta, the Cheetah III nude-dancing club now features a salute to America's fighting men in Saudi Arabia. As Bruce Springsteen defiantly proclaims that he was "Born in the USA," our heroines stand atop customers' tables and take off everything except the small American flags that they wave patriotically. One dancer notes that her boyfriend is in the Navy, and when she dances, she "puts a little extra into it" for him. Brings a tear to your eye, doesn't it?

Unfortunately, the soldiers in Saudi Arabia won't get to see the Cheetah III salute—or much of anything else. The military has severely restricted entertainment for fear of offending our Moslem "hosts." (A shipment of comic books was turned away because Wonder Woman's costume was too revealing for Saudi tastes.) Meanwhile, soldiers grumble about boredom, lack of recreational activities, and low morale. This just p.o.ed Marine Corps Commandant Gen. Alfred Gray. Gray told a group of Marines stationed near the Kuwaiti border, "There will be no morale problem in the 1st Marine Expeditionary Force because I say there will be morale. There will also be no boredom. Suck in that gut. Buy that pride." Maybe the commander has seen *Patton* one time too many.

Still, U.S. soldiers don't have it nearly as rough as the British troops stationed in Saudi Arabia. Four years ago, the defense ministry sold its entire stock of desert uniforms because it thought they were no longer needed. They sold them to Iraq.

Of late, Patti Davis has picked up a few bucks by knocking her parents, Ronald and Nancy Reagan. Davis went on "A Current Affair" to blame her father for the slaughter of dolphins and later told a magazine that he exacerbated the homeless problem. But as her brother Michael points out, "If she wasn't writing articles and books about her father, she would probably be homeless herself because that's how she's making her money."



Sticks-and-stones-may-break-my-bones department. When "This Week with David Brinkley's" Sam Donaldson tried to ask archprotectionist Sen. Ernest Hollings (D-S.C.) if reports that he buys his suits from South Korea are true, the Foghorn Leghorn soundalike got a little huffy. "Well, I tell you the truth, I think I got that suit, this is not the one, but the same place right down the street where—if you want to personalize this thing—where you got that wig, Sam."

Vice President Dan Quayle will play himself on an episode of the TV series "Major Dad." He can now reassure voters with a commercial that goes "I'm not really the vice president of the United States. I just play him on television."

To measure the fish population in the Muskegon, Au Sable, and Manistee rivers, the Michigan Department of Natural Resources put poison in the rivers, killing 2,400 fish.

Meanwhile, in Knoxville, the census bureau failed to count University of Tennessee football coach Johnny Majors, despite his weekly television appearances. Auburn coach Pat Dye has been unsuccessful in his attempts to have Majors recounted by the Michigan Department of Natural Resources.

There's a new newsletter for you music fans. *East End Lights* is a monthly that focuses exclusively on Elton John. I don't know about you, but I don't let a day go by without thinking, "Gee, I wonder what Elton John is up to."

In Los Angeles, a judge has found the trendy Mayan club guilty of violating a state law prohibiting discrimination on the basis of appearance. Several people had complained that the club's doormen turned them away because they were nerds. Would these people really want into the Mayan if it didn't turn nerds away?

—Charles Oliver

State-of-the-Art:

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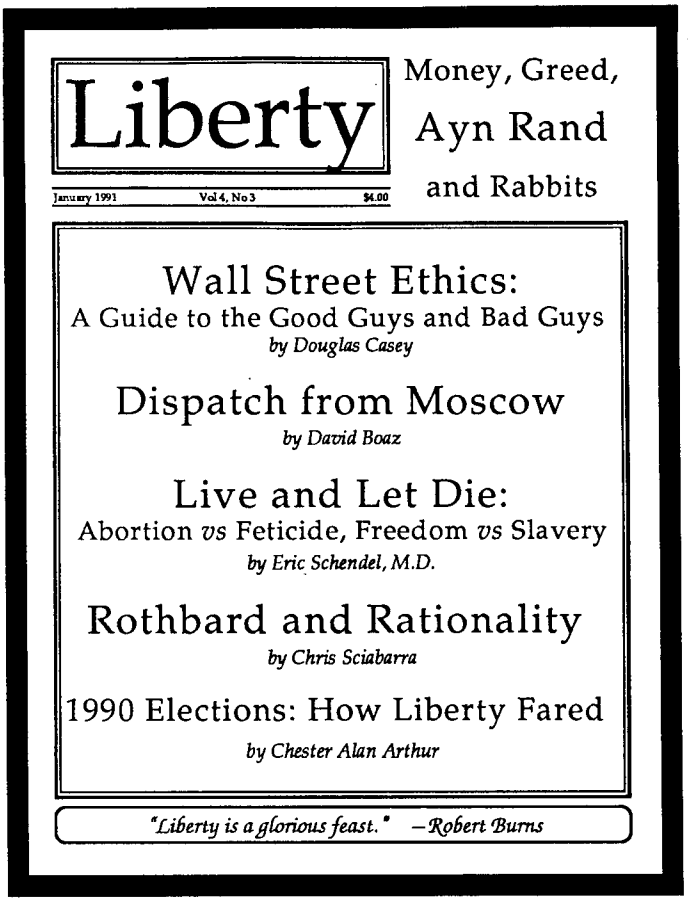
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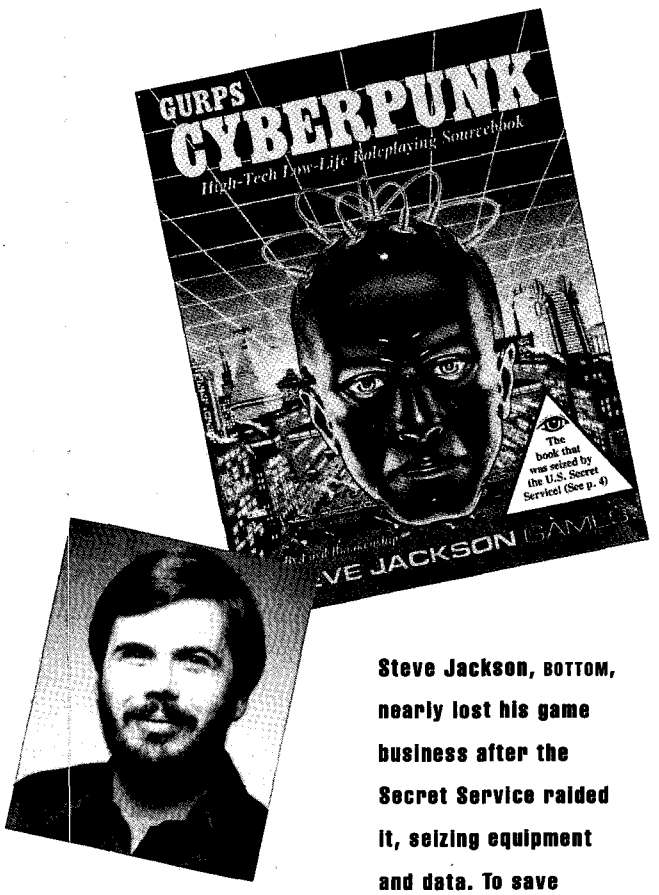
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The book that was seized by the U.S. Secret Service! (See p. 4)
VE JACKSON GAMES

Steve Jackson, BOTTOM, nearly lost his game business after the Secret Service raided it, seizing equipment and data. To save the company, he and his employees had to reconstruct their new game, TOP, from memory.

Back in early February, newspapers

across the country reported that computer hackers were interfering with emergency calls over the 911 communications network. The reports said the hackers had penetrated the system using information from a secret computer document.

The scare grew out of an indictment by a grand jury in Lockport, Illinois. On February 7, Craig Neidorf and Robert Riggs were indicted on seven counts of wire fraud, violation of the Computer Fraud and Abuse Act of 1986, and interstate transportation of stolen goods.

Prosecutors alleged that Neidorf and Riggs had conspired to steal, using fraudulent methods, a confidential and proprietary document from the Bell South telephone company. This document, it was claimed, could allow computer hackers to disrupt the 911 emergency network.

The arrest of Neidorf and Riggs was only the beginning. The Secret Service, which has authority over crimes involving government computers, had embarked on a vast, nationwide investigation of hacker activity: Operation Sun Devil.

Imagine the night face of North America,

shining not with cities but with lines of light showing the transmission of data. Brightest are New York City, the financial capital, and California, the technological capital, with Washington, D.C., a close third. The lines that crisscross the country are telephone wires and cables, microwave transmissions, and packet-switching networks designed for computer communication. Here and there, beams dart into space to reflect off satellites and back to earth.

The computer networks in this country are huge. The largest are entities like UseNet and InterNet, which link every academic computing center of any size and are accessible to every scientist, university student, and faculty member in the nation. The networks also include government-operated systems, such as MilNet, which links military computers that do not carry confidential information. And there are the commercial services, such as Dow Jones News/Retrieval, SportsNet, CompuServe, GEnie, and Prodigy. CompuServe is the largest of these, with half a million subscribers.

In addition to these massive entities are thousands of tiny bulletin board services, or BBSes. Anyone with a computer and a modem can start a BBS; others can then call it up and use it. BBSes offer, in miniature, essentially the same services that the commercial nets offer: the ability to chat with others by posting messages to an electronic bulletin board and the ability to upload and download software and text files. There are more than 5,000 BBSes in the United States, most of them operated

THE NET

Will overzealous investigations of computer crime render freedom of the press technologically obsolete?

BY GREG COSTIKYAN

for fun. Few charge their users. In my local calling area alone, I know of BBSes for writers, gamers, Macintosh enthusiasts, gays, and the disabled—and I'm sure there are others.

The vast majority of BBSes deal with unexceptionable topics. But some boards deal with questions of computer security. These attract hackers.

Naturally, hackers discuss their hobby: breaking into computers. Usually, however, bulletin board discussions are general in nature. Hackers are not stupid, and they know that posting credit card numbers or the like is evidence of criminal activity. By and large, BBS discussions rarely, if ever, contain information that would be illegal if published in print form. It's not illegal, after all, to tell your readers how to commit illegal acts. If it were, books like *The Anarchist's Cookbook* and *Scarne on Cards* (and half the murder mysteries in print) would be banned.

The laws dealing with electronic transmissions, however, are far from clear. And the methods used to enforce these vague laws set a dangerous precedent for abridging freedom of speech.

In the future, the Net—the combination of all the computer networks—will be the primary means of information transmission, with print publication merely its adjunct. The Net will replace the press, and users of the Net must enjoy precisely the freedoms enjoyed by the press. If users of the Net have to worry about police surveillance, if censorship is rife, if the state forbids mere discussion of certain topics—then the liberty for which the Founders fought will have been destroyed, not by war or tyranny, but by mere technological change.

From the government's point of view, the arrest of Neidorf and Riggs did not end the threat to the 911 network. The document they had stolen was not a single piece of paper that could be returned to its rightful owner. It was an electronic document that Riggs had downloaded from a Bell South computer.

Riggs belonged to a hacker group called the Legion of Doom, whose members shared information. It was likely that others in the group had copies of the 911 document. Worse, Riggs had uploaded the 911 document to a bulletin board service in Lockport, Illinois. Neidorf had downloaded the file from the Lockport BBS. Anyone else who used the same BBS could have downloaded it, too, meaning that dozens of people might have this dangerous information. Worse yet, Neidorf had published an edited version of the Bell South document in an issue of his underground computer magazine, *Phrack*.

Unlike conventional magazines, *Phrack* never saw a printing press; it was distributed electronically. After preparing an issue, Neidorf would dispatch it, via various computer networks, to his address list of 1,300 names. Any recipient could then upload the magazine to a bulletin board or to one of the academic or commercial nets. That meant thousands, perhaps millions, of people had access to the information in the Bell South document.

We may imagine that the Secret Service was gravely concerned about the potential threat to emergency services. If not, their subsequent actions are hard to fathom.

On March 1, 1990, employees of Steve Jackson Games, a small game company in Austin, Texas, arrived at their place of business to find that they were barred from the premises. The Secret Service had a warrant, and the agents conducting the search wouldn't let anyone in until they were done.

The agents ransacked the company's offices, broke a few locks, and damaged some filing cabinets. They searched the warehouse so thoroughly, says company founder Steve Jackson, that afterward it "looked like a snowstorm," with papers strewn randomly. The agents confiscated three computers, a laser printer, several pieces of electronic equipment (including some broken equipment from a storeroom), several hard drives, and many floppy disks. They told Jackson they were seizing the equipment "as evidence" in connection with a national investigation.

Among the equipment seized was the computer through which S.J. Games ran a BBS to communicate with customers and freelancers. It had never been a congregating point for hackers and was about as much a threat to the public order as a Nintendo game.

The loss of the equipment was bad enough. Worse, the Secret Service seized all existing copies—on hard drives, floppy disks, *and* paper—of S.J. Games' next product, a game supplement called GURPS Cyberpunk. The loss of that data shot Jackson's publication schedule to hell. Like many small pub-

lishers, S.J. Games runs on tight cash flow. No new products, no income. No income, no way to pay the bills.

Over the next several weeks, Jackson was forced to lay off about half of his 17 employees. By dint of hard work, he and his staff managed to reproduce the data they'd lost, mostly from memory. S.J. Games finally published GURPS Cyberpunk as "The Book Seized by the Secret Service." It has sold well by the (low) standards of the field.

Jackson estimates the raid has cost him more than $125,000, a sum a small company like his can ill afford. (The company's annual revenue is less than $2 million.) He was nearly put out of business by the Secret Service.

What justified the raid and the seizures? Apparently, this: The managing editor of Steve Jackson Games is Loyd Blankenship. Blankenship ran The Phoenix Project, a BBS of his own in the Austin area. Blankenship consorted with hackers. He was fascinated by the computer underground and planned to write a book about it. He may or may not have once been a hacker himself. He certainly knew and corresponded electronically with admitted members of the Legion of Doom.

It turned out that the 911 document, which had given rise to the whole investigation, was neither secret, nor valuable, nor dangerous.

But perhaps Blankenship's worst luck was this: An issue of Neidorf's *Phrack* magazine included an article titled "The Phoenix Project." As it happens, that article had nothing to do with Blankenship's BBS of the same name. But the Secret Service was well aware of the contents of *Phrack*. Indeed, the revised indictment of Neidorf and Riggs, issued in July, cited the article by title. The same morning that the Secret Service raided Steve Jackson Games, agents awakened Blankenship and held him at gunpoint as they searched his house. They seized his computer and laser printer as "evidence."

Consider the chain of logic here. Robert Riggs is accused of a crime. Riggs belongs to a group. Loyd Blankenship is friends with other members of the group, though not with Riggs himself. Steve Jackson Games employs Blankenship. Therefore, the Secret Service does grievous financial injury to Steve Jackson Games. This is guilt by association taken to an extreme.

Neither Blankenship, nor Steve Jackson Games, nor any company employee, has ever been charged with so much as spitting in a public place. The Secret Service refuses to comment, saying only that S.J. Games was not a target of the investigation.

The company is now receiving legal help from the Electronic Frontier Foundation, an organization devoted to promoting civil liberties in electronic media. The Secret Service has returned most—but not all—of the company's seized equipment. Some of it is broken and irreparable. The government has made no offer of restitution or replacement.

On May 8, 1990, the Secret Service executed 28 or more search warrants in at least 14 cities across the country. The raids involved more than 150 agents, plus state and local law enforcement personnel.

According to a press release from the U.S. Attorney's office in Phoenix, the operation targeted "computer hackers who were alleged to have trafficked in and abused stolen credit card numbers [and] unauthorized long-distance dialing codes, and who conduct unauthorized access and damage to computers." The agency claimed the losses might amount to millions of dollars. In later releases and news reports, that figure was inflated to tens of millions of dollars.

Nationwide, the government seized at least 40 computers and 23,000 disks of computer information. In most cases, the subjects of these searches have remained anonymous. Presumably, they have either been advised by counsel to remain silent or have been so intimidated that they wish to attract no further attention.

John Perry Barlow reports in *Whole Earth Review* that the Secret Service held families at gunpoint while agents charged into the bedrooms of teenage hacker suspects. He adds that some equipment seizures deprived self-employed mothers of their means of support. These reports remain unconfirmed. It's clear, however, that the Secret Service closed down a number of BBSes by the simple expedient of seizing "as evidence" the computers on which those BBSes operated.

Bulletin board services are venues for speech. They are used mainly to exchange information and ideas. Nothing in the nature of the technology prevents the exchange of illegal ideas. But in a free society, the presumption must be that, in absence of proof to the contrary, the use of a medium is legitimate. The Secret Service has not indicted, let alone convicted, the operators of any of the BBSes closed down on May 8.

If law enforcement officials suspect that a magazine, newspaper, or book publisher may be transmitting illegal information, they get a warrant to search its files and perhaps a restraining order to prevent publication. They don't, however, seize its printing presses to prevent it from operating. A clearer violation of freedom of the press could hardly be imagined. Yet that is precisely what the Secret Service has done to these BBSes.

One of the BBSes closed down was the JolNet BBS in Lockport, Illinois, which Neidorf and Riggs had used to exchange the 911 document. Ironically, JolNet's owner, Richard Andrews, had triggered the investigation by noticing the document, deciding it was suspicious, and notifying the authorities. He had cooperated fully with the investigators, and they rewarded him by seizing his equipment.

The Ripco BBS in Chicago was among those raided by the Secret Service. Operated by Bruce Esquibel under the handle of "Dr. Ripco," it was a freewheeling, wide-ranging board, one of the best known BBSes in the Chicago area. Speech was extraordinarily free on the Ripco board.

"I felt that any specific information that could lead to direct fraud was not welcome and would be removed, and persons who repeated violating this themselves would be removed from the system also," Esquibel writes. But just about anything else was open for discussion. Hackers did indeed discuss ways of breaking into computers. And the Ripco board contained extensive text files, available for downloading, on a variety of subjects to which some might take exception. For instance, there was a series of articles on bomb construction—material publicly available from books such as *The Anarchist's Cookbook*.

Along with the computer on which Ripco operated, the Secret Service seized two other computers, a laser printer, and a 940-megabyte WORM drive, an expensive piece of equipment. The additional seizures mystify Esquibel. "My guess is that after examining the rat's nest of wires around the three computers, they figured anything plugged into the power strip must have been tied in with [the rest] in some way," he says.

The Secret Service has yet to return any of Esquibel's equipment. He has yet to be charged with any crime, other than failure to register a firearm. (He had three unlicensed guns at his office; he informed the Secret Service agents of this before they began their search.) Says Esquibel, "The government came in, took my personal property to determine if there was any wrongdoing somewhere. It seems like a case of being guilty until proven innocent....It's just not right....I am not a hacker; [I don't] have anything to do with credit cards or manufactured explosives. Until the weapons charge I never had been arrested, and even my driving record has been clean since 1978."

It appears that the Secret Service has already achieved its goal. The Ripco board was a place where "dangerous" speech took place, and the agency closed it down. Why bother charging Esquibel with a crime? Especially since he might be acquitted.

Secret Service agents searched the home of Len Rose, a computer consultant from Baltimore, on May 8. The agents not only seized his computers but confiscated every piece of electronic equipment in the house, including his fax machine, along with some family pictures, several boxes of technical books, and a box containing his U.S. Army medals.

On May 15, Rose was indicted on four counts of wire fraud, aiding and abetting wire fraud, and interstate transportation of stolen goods. Among other things, the indictment alleged that Rose is a member of the Legion of Doom, a claim both he and admitted Doomsters vociferously deny.

The interstate-transportation charge is based on the fact that Rose was in possession of source code for Unix, an operating system used by a wide variety of minicomputers and computer workstations. (Source code is the original text of a program.) In theory, Unix is the property of AT&T, which developed the system. AT&T maintains that Unix is protected as a confidential, unpublished work. In fact, AT&T has sold thousands of copies across the country, and every systems programmer who works with Unix is likely to have some of the source code lying around.

The wire-fraud counts are based on the fact that Rose sent a copy of a "Trojan horse" program by electronic mail. Trojan horse programs are sometimes used by hackers to break into computers; they are also sometimes used by system managers to monitor hackers who try to break in. In other words, a Trojan horse program is like a crowbar: You can use it to break into someone's house, or you can use it to help renovate your own house. It has both legitimate and illegitimate uses.

Rose is a computer consultant and has dealt with security issues from time to time. He maintains that his Trojan horse program was used solely for legitimate purposes—and, in any case, would no longer work, because of changes AT&T has made to Unix since Rose wrote the program. Rose is not charged with actually attempting to break into computers, merely with possessing a tool that someone could use to break in. In essence, the Secret Service found Len Rose in possession of a crowbar and is accusing him of burglary.

By seizing Rose's equipment, the Secret Service has effectively denied him his livelihood. Without his equipment, he cannot work. Rose says he has lost his home, his credit rating and credit cards, his business, and some of his friends. He can no longer afford to retain his original attorney and is now represented by a public defender.

Rose's difficulties are compounded by a theft conviction arising from a dispute with a former client regarding the ownership of computer equipment. Nevertheless, it seems brutal for the Secret Service to deny him the means to support his family and to pay for an effective defense. Investigators must long ago have gleaned whatever evidence his equipment may have contained.

Ultimately, the case against Neidorf and Riggs fell apart. In June, the grand jury issued a revised indictment. It dropped the charges of violating the Computer Fraud and Abuse Act and added seven new counts of wire fraud, some involving electronic mail between Neidorf and Riggs. Neidorf was charged with two counts of wire fraud for uploading issues of *Phrack* to JolNet. In other words, mere distribution of his publication was deemed to be "fraud" because *Phrack* contained material the Secret Service claimed had been obtained by fraudulent means. The new indictment also reduced the "value" of the document Riggs allegedly stole from more than $70,000 to $20,000.

On July 9, Riggs pleaded guilty in a separate indictment to one count of conspiracy in breaking into Bell South's computer. Sentencing was set for September 14—after Neidorf's trial was to begin. Riggs agreed to be a witness for the prosecution of Neidorf.

On July 28, Neidorf's trial began in Chicago. Within four days, it was over. The prosecution's case had collapsed.

Under cross-examination, a Bell South employee admitted that the stolen document was far from confidential. Indeed, any member of the public could purchase a copy by calling an 800 number, requesting the document, and paying $13—far less than the $20,000 claimed value or the $5,000 minimum required to support a charge of transporting stolen goods across state lines.

Testimony also revealed that the contents of the document could not possibly allow someone to enter and disrupt the 911 network. The document merely defined a set of terms used in telecommunications and described the procedures used by Bell personnel in setting up a 911 system.

Riggs, testifying for the prosecution, admitted that he had no direct knowledge that Neidorf ever gained illegal access to anything; that Neidorf was not himself a member of the Legion of Doom; and that Neidorf had not been involved in the initial downloading of the document in any way.

The Secret Service closed down electronic bulletin boards by simply seizing "as evidence" the computers on which they operated.

In short, Neidorf and Riggs had not conspired; therefore, Neidorf should not have been charged with the fraud counts. The only value of which Bell South was "deprived" by Riggs's downloading was $13; therefore, he was, at worst, guilty of petty theft. The interstate-transportation counts were moot, since the "stolen goods" in question were worth less than the $5,000 minimum.

Not only was there no case against Neidorf—there also was no case against Riggs. The government dropped the case against Neidorf. Riggs, however, had already pleaded guilty.

The computer nets do need policing.

Computer crooks can steal and have stolen millions of dollars. But a balance must be struck between civil liberties and the legitimate needs of law enforcement. The laws as currently constituted are inadequate from both perspectives, and the Secret Service seems determined to interpret them with a callous disregard for civil liberties.

To attack computer crime, prosecutors primarily use the statutes dealing with wire fraud and interstate transportation of stolen goods, the Computer Fraud and Abuse Act of 1986, and the Electronic Communication Privacy Act of 1986. The wire fraud statute prohibits the use of the telephone, wire services, radio, and television in the commission of fraud. The courts have, logically, interpreted it to apply to electronic communications as well.

The interstate transportation statute prohibits transportation of stolen goods valued at $5,000 or more across state lines. Neidorf's lawyer moved to dismiss those counts, claiming that nothing tangible is transported when a document is uploaded or downloaded. The judge ruled that tangibility was not a requirement and that electronic transmission could constitute transportation. The Computer Fraud and Abuse Act prohibits knowingly, and with intent to defraud, trafficking in information that can be used to gain unauthorized access to a computer.

The Electronic Communications Privacy Act makes it a crime to examine private communications transmitted electronically. Among other things, it requires law enforcement agencies to obtain search warrants before opening electronic mail. It is unclear whether electronic mail files on a BBS's hard drive are covered by a warrant that permits seizure of the hard drive, or whether separate warrants are needed for each recipient's mail.

The reliance on fraud statutes to fight computer crime presents problems. Fraud is the use of chicanery, tricks, or other forms of deception in a scheme to deprive the victim of property. Most attempts by hackers to gain illegal access to a computer do involve chicanery or tricks, in some sense—the use of other people's passwords, the use of known bugs in systems software, and so on. Much of the time, however, a hacker does not deprive anyone of property.

If the hacker merely signs on and looks around, he deprives the computer operators of a few dollars of computer time at worst. If he downloads a file, the owner still has access to the original file. If the file's confidentiality has value in itself—as with a trade secret—downloading it does deprive the owner of something of value, but this is rarely the case.

We need a "computer trespass" statute, with a sliding scale of punishments corresponding to the severity of the violation. Just as burglary is punished more severely than trespass, so a hacker who steals and uses credit card numbers ought to be punished more severely than one who does nothing more than break into a computer and examine a few public files. In the absence of such a scheme, law enforcement personnel naturally try to cram all computer violations into the category of fraud, since the fraud statutes are the only laws that currently permit prosecution of computer crimes. As a result, petty crimes are charged as felonies—as with Neidorf and Riggs.

Legitimate users and operators of com-

puter networks need to be protected from arbitrary seizures and guilt by electronic association. The criminal code permits law enforcement personnel to seize equipment used in a crime or that might provide criminal evidence, even when the owner has no knowledge of the crime. But the purpose of such seizures is to allow the authorities access to evidence of criminal activity, not to shut down businesses. Searchers need not remove computer equipment to inspect the files it contains. They can sit down and make copies of whatever files they want on the spot. Even if they expect some piece of incriminating material to be

hidden particularly well—for example, in a specially protected file or in a ROM chip—it is unreasonable to hold onto the seized equipment indefinitely.

And it's clearly wrong to seize equipment that cannot, by any stretch of the imagination, contain incriminating data. In both the Steve Jackson and Ripco cases, the Secret Service seized laser printers along with other equipment. Laser printers have no permanent memory (other than the factory-supplied ROM chips that tell them how to operate). They print words on paper, that's all. They cannot contain incriminating information.

Even computers themselves cannot possibly constitute evidence. When you turn off a computer, its memory dies. Permanent data exist only on storage media—hard drives, floppy disks, tape drives, and the like. Even if law enforcement personnel have some compelling reason to take storage media away to complete a search, they have no reason to take the computers that use those media.

Just as a computer is not evidence because it once carried incriminating information, a network is not a criminal enterprise because it once carried data used in or derived from fraudulent activity. Yet under current law, it seems that the operator of a bulletin board is liable if someone posts an illegal message on it. Say I run a BBS called Mojo. You dial Mojo up and leave Mario Cuomo's MasterCard number on the board, inviting anyone to use it. Six people sign on, read the message, and fly to Rio courtesy of the governor before I notice the message and purge it. Apparently, I'm liable—even though I had nothing to do with obtaining Cuomo's credit card number, never used it, and strenuously object to this misuse of my board.

Such an interpretation threatens the very existence of the academic and commercial nets. A user of UseNet, for instance, can send a message to any other user of UseNet. The network routes messages in a complex fashion—from Computer A to Computer B to Computer C, and so on, depending on what computers are currently live, the volume of data transmitted among them, and the topography of the net itself. The message could pass through dozens of computers before reaching its destination. If someone uses the message to commit fraud, the system operators of every computer along its path may be criminally liable, even though they would have no way of knowing the contents of the message.

Computer networks and BBSes need the same kind of "common carrier" protection that applies to the mails, telephone companies, and wire services. Posting an illegal message ought to be illegal for the person who posts it—but not for the operator of the board on which the message appears.

The main function of the Net is to promote communication. People use it to buy goods, research topics, download software, and a myriad of other things as well, but most of their computing time is spent communicating: by posting messages to bulletin boards, by "chatting" in real time, by sending electronic mail, by uploading and downloading files. It makes no sense to say that discussion of a topic in print is OK, but discussion of the same topic via an electronic network is a crime.

Yet as currently interpreted, the law says that mere transmission of information that someone *could* use to gain access to computers for fraudulent purposes is itself fraud—even if no fraudulent access takes place. The Secret Service, for instance, was willing to indict Neidorf for publishing information it thought could be used to disrupt the 911 network—even though neither Neidorf nor anyone else actually disrupted it. We must clearly establish that electronic communications are speech, and enjoy the same protections as other forms of speech.

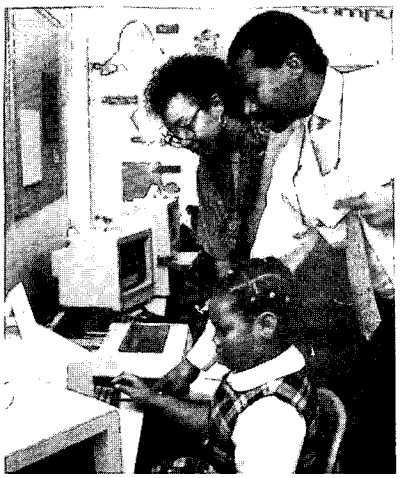
The prospects for such legal reform are not bright. Three times in this century, technological developments have created new venues for speech: with radio, with television, and with cable. On the grounds of scarcity, government restricts freedom of speech on radio and television; on the grounds of natural monopoly, government regulates speech on cable. Recent events, such as the conviction of former Cornell graduate student Robert T. Morris for introducing a virus into the nationwide ARPANet, have aroused worry about hacker crimes. But concern for the rights of legitimate users of computer nets has not received the same level of publicity. If anything, recent trends lean toward the adoption of more draconian laws—like the Computer Fraud and Abuse Act, which may make it illegal even for computer security professionals to transmit information about breaches of security.

The Net is vast—and growing fast. It has already changed the lives of thousands, from scientists who learn of new breakthroughs far more quickly than if they had to wait for journal publication, to stay-at-home writers who find in computer networks the personal contact they miss without office jobs. But the technology is still in its infancy. The Net has the capacity to improve all our lives.

A user of the Net can already find a wide variety of information, from encyclopedia entries to restaurant reviews. Someday the Net will be the first place citizens turn to when they need information. The morning paper will be a printout, tailored to our interests and specifications, of articles posted worldwide; job hunters will look first to the Net; millions will use it to telecommute to work; and serious discussion will be given to the abolition of representative government and the adoption of direct democracy via network voting.

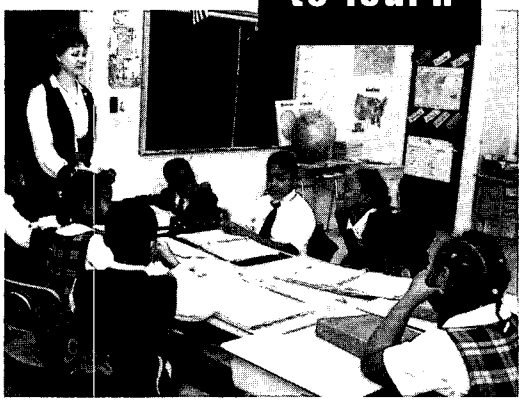
Today, we are farmers standing by our country lanes and marveling as the first primitive automobiles backfire down the road. The shape of the future is murky. We cannot know what the Net will bring, just as a farmer seeing a car for the first time couldn't possibly have predicted six-lane highways, urban sprawl, the sexual revolution, and photochemical smog. Nonetheless, we can see that something remarkable is happening, something that will change the world, something that has the potential to transform our lives. To ensure that our lives are enriched and not diminished, we must ensure that the Net is free. ■

Greg Costikyan is a writer of fiction and nonfiction who has designed 23 commercially published games.



The church-affiliated Monroe Saunders School in Baltimore has a calm, scholarly atmosphere.

How do you get kids to learn



and parents to care?

STRENGTH

The Monroe Saunders School in Baltimore and the Sheenway School and Culture Center in Los Angeles are separated by more than just 3,000 miles and three time zones. Located on a 22-acre campus of grassy, rolling hills in the suburban outskirts of Baltimore, Monroe Saunders School inhabits a stately, multi-story brick building that once housed a preppy boarding school for girls. Its 80 K-3 students wear uniforms, come from primarily middle- or upper middle-class professional families, and attend a school with a clear and undeniable religious setting. The school's parent church, the worldwide First United Church of Jesus Christ-Apostolic, absorbs some of the school's costs.

Sheenway inhabits a small complex of single-story units on the outskirts of Watts. The carpet in its reception area is held together with gray duct tape. Its 80 students come from both working- and middle-class families, some intact with two parents, some with only a mother. Its teachers use the Montessori and Socratic methods, and students progress without rigid class times or grade categories. With no sponsoring church for support, Sheenway must supplement tuition income with donation drives, car washes, bake sales, and many volunteer instructors.

But there are important similarities between Saunders and Sheenway. Both charge under $3,000 a year in tuition, less than what is spent per pupil at nearby public schools. Both produce students who attend college or professional schools in significant numbers. Both began as the vision of a single, entrepreneurial family. Both eschew government aid. And both are operated by and for black Americans.

It is the differences between Saunders and Sheenway—determined by their communities, their founders, and their philosophies—that suggest a solution to the nation's education crisis. In America's successful black private schools, no single approach seems to work best. Autonomous schools, diverse in program and personnel, meet the varying needs of students and parents. If the experience at Saunders, Sheenway, and other schools is any guide, education-reform efforts that rely on state mandates and higher spending are doomed. Diversity is the key to quality.

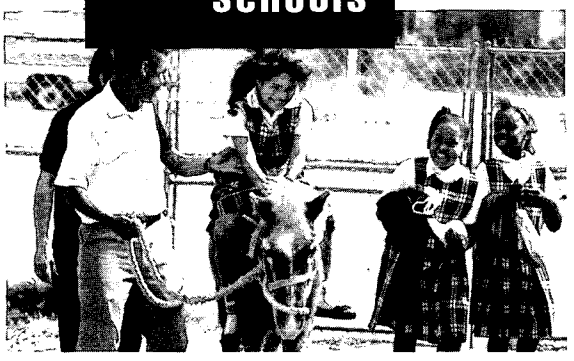
Black private schooling is a widespread but relatively little-known phenomenon. Joan Davis Ratteray—whose Institute for Independent Education in Washington, D.C., has identified, studied, and publicized black and other minority private schools for half a decade—speaks of an "Underground Railroad in minority education" that allows the "slaves" of failed public schools to "escape to freedom." Like its Underground Railroad precursor, America's network of black private schools can offer services to only a small percentage of the population, but news of the network's success, spread by family ties and word of mouth, inspires many other blacks. And just as the Harriet Tubmans of the Underground Railroad pursued their visions of freedom with tireless effort and personal devo-

TOM JEMSKI

The success of black private schools underscores the need for choice.

BY JOHN HOOD

The independent Sheenway School in Los Angeles, run by Delores Sheen, RIGHT, has a spontaneous, informal environment.



DIVERSITY

tion, so do black schools usually reflect the personality, character, and ideals of a single person or family, frequently the school's namesake. These founders and educators immerse themselves in their schools, so much so that person and institution become almost indistinguishable.

While the charisma of its leaders and the reputation of its learning environment have brought acclaim to many a school—exemplified by the nationwide and even worldwide fame of Chicago educator and school founder Marva Collins—some education scholars, public officials, and even civil rights groups question the black independent school mystique. Some contend that the schools' high levels of student achievement, low dropout rates, and impressive college completion rates reflect not superior instruction but simply students already destined for success, because of family background or natural talents.

Others question the much-vaunted cost savings posted by these schools, saying that their hefty church subsidies and abysmal teacher salaries cannot or should not be duplicated elsewhere. Still other critics contend that private schools with predominantly black or other minority student populations foster racial segregation and separatism, interfering with comprehensive integration efforts in the public schools and depriving students of what these critics view as a crucial role of public education: socialization of minorities into the mainstream culture of the United States.

These criticisms must sting. And many schools seem reluctant, at least initially, to discuss their programs and principles with the media or other outside observers. Will straightforward talk, they must ask themselves, about education, religion, and race hurt or help the cause? But once reassured, their enthusiasm becomes immediately apparent. As far as they're concerned, the success of their schools demonstrates the fundamental shortcomings of public education—and refutes the still-lingering suspicion among some Americans that black children can't learn and black parents don't care.

In 1965, Bishop Monroe Saunders founded the United Church of Jesus Christ-Apostolic and quickly located a church in Baltimore. The area, he told family members, also needed a school to provide "the best education possible within a spiritual atmosphere," says his son and current school administrator, Bishop Monroe Saunders, Jr. "The idea was not to teach Bible," he says, "but to allow children to grow up without feeling that there is a necessary separation of God and life."

In 1977 the church bought another private school's former campus and buildings, and in 1978 it opened the Center for Creative Learning, with six kindergarten students. The next year, the school added day care. Eventually the pre-kindergarten operation took the name Center for Creative Learning, while the kindergarten and higher grades became known as the Monroe Saunders School. Over the years, the number of grades and students has fluctuated widely, ranging as high as 200 students. The school currently teaches 80 students, grades K

JONATHON NOUROK

Black private schools refute the still-lingering suspicion among some Americans that black children can't learn and black parents don't care.

through 3, and another 80 preschoolers. Fourth grade will reappear in 1991.

Monroe Saunders, Sr., his family, and the staff members he recruited—often from the Baltimore public schools—determined the school's philosophy, curriculum, texts, and materials. But "to be certain our education program was applicable" to the middle and high schools that students would eventually attend, the younger Saunders says, the school sought and received accreditation from the state of Maryland.

The school retains a very clear religious and philosophical orientation. Its Christian setting "was an answer to a prayer," says the school's new principal, Brenda Sewell, who started her job in September. Outside her office, a large bulletin board proclaims, "We Are Proud Of Our Heritage," with pictures and biographical descriptions of Martin Luther King, Booker T. Washington, and other black figures in American history.

Sewell came to the Saunders school from the Baltimore city system, having served 12 years in administration and more than 20 years as a teacher. She's enthusiastic about the change. "In the city, I could spend only about 15 minutes a day in the classroom," Sewell says of her tenure as an elementary school principal. "Here I have the prospect of having more time to spend with the children." Indeed, while I interviewed one of her teachers, Sewell stepped into the third-grade classroom and led the students in counting to 10 in Spanish. She says she often helps teachers in the classroom, getting to know the students and keeping in constant contact with her instructors.

Other advantages the school has over its public counterparts, Sewell says, are smaller class sizes (ranging from about 15 to 20 students); ease and speed in obtaining textbooks and other supplies; a religious atmosphere that, in her view, promotes discipline and encourages learning; and a lack of administrative or bureaucratic barriers between teacher and child. "The first impression I had is that you as a teacher don't feel the pressure of satisfying so many opinions or supervisors," she says.

Her staff consists of 10 full- and part-time teachers: two for kindergarten, one for each grade, a Spanish teacher, a computer teacher, a music teacher, and a couple of other consultants. Of the five grade-level teachers, two are white, though the student body is 100-percent black. "I think that kids need to see all races in authority and as followers," Sewell says. In a pattern often duplicated among black private schools, parents volunteer in the classroom. The school maintains an open-door policy so parents can visit anytime.

"It's lovely to teach here," says Beonia Jeter, who teaches first grade. A retired public-school teacher, she praises the school's small size, supportive parents, and eager students (whose uniforms "calm them down because they aren't competing to wear the best clothes"). Jeter also likes having greater control over curriculum. The salary, of course, is significantly lower than what she earned before, but her public-school pension eases the financial pressure. Ultimately, she confides, "you can't think about the money. That's not the point."

The school does use a screening process for student admission. "We want children to come to Monroe Saunders who are going to be prepared for success," Sewell says. But about 94 percent of applicants are admitted. Sewell notes that the school doesn't have the resources to handle some learning disabilities or other problems.

On average, Saunders students test at least a grade level above public-school students in reading or math skills. In a nationwide testing program for day-care institutions, Center for Creative Learning students scored in the 90th percentile.

The students come from all around the Baltimore area. Parents drop off about half the kids, while the rest come by bus. (The school maintains a long-term contract with a private bus company.) Only about a third of the students and their families belong to the Saunders church. Formal religious education consists mainly of nondenominational morning devotions, frequently revolving around examples of the monthly "principle," such as patience, love, thanksgiving, or self-control. Students learn Bible verses that reflect the monthly principle.

The younger Bishop Saunders pegs the school's per-pupil expenditure at around $4,000—considerably more than its $2,800 annual tuition. The church absorbs utility and capital costs, and its members—along with a school parents' association—conduct frequent fundraising drives.

Saunders says that other Baltimore-area private schools spend about $5,000 to $6,000 per student, while the Baltimore City School System reports yearly per-pupil expenditure of almost $4,500. "We're trying to be competitive," Saunders says. "The school is our mission, but it is still a business."

A visit to the Monroe Saunders School is illuminating. Physically and structurally, the school resembles many other private and even public schools, though the former boarding school's building lends an academic, scholarly aura not common at the elementary school level. The difference is a subtle one, one of atmosphere. A visitor is left with an impression of both calm reserve and infectious enthusiasm.

Enthusiasm, but little calm, abounds at Los Angeles's Sheenway School and Culture Center. Near the end of the school day, parents pick up their children and receive motherly advice from director Delores Sheen, as volunteer instructors arrive to teach their afternoon classes. "Aunt Dolores," as the Sheenway community calls her, is always accessible. "She's

not just the school," says one mother, flashing a sly smile at Sheen, "she's also our nurse and our doctor and everything."

All sorts of pictures, paintings, posters, and portraits of JFK, MLK, and other historical figures cover the school's walls. The emphasis is clearly on stimulation, not orderliness. "All Unattended Children Will Be Sold Into Slavery," proclaims one note on the bulletin board. Above the door, a computer-printed banner announces, "Sheenway Loves Mandela."

Sheen, tearing herself away from a group of parents, relates the story of how her father, a physician, decided to found the school. After moving to California from Texas, Dr. Herbert Sheen built a medical clinic in Watts—"which was unheard of," his daughter says—and saw firsthand the many challenges facing families in the neighborhood. The Watts riots brought many problems out into the open. Dr. Sheen tried to help black entrepreneurs start and maintain businesses in Watts, but numerous enterprises failed. Eventually he decided that the community first needed a center of learning.

"He pooled his own resources, cashed in life insurance, and combined that with community resources" to start Sheenway School and Culture Center, Delores Sheen explains, "and that's probably why we're still standing." In addition to the school itself, the complex includes a preschool, a martial arts academy, and a theater arts academy. "We wanted to give [neighborhood kids] a complete and wholesome approach to learning," Sheen says.

Five years after founding the school, Dr. Sheen died. It was a difficult time for Sheenway, both inspirationally and financially. "During the first five years, we didn't have to worry much about money," Sheen remembers, since her father's medical practice had generated funds to subsidize the school.

The school now charges $2,600 in annual tuition but couldn't survive without donations and fundraisers. Parents must volunteer to perform some task—aiding instructors, teaching their own classes, helping with maintenance—at least once a month, or else pay an extra $35. Parents of scholarship students must volunteer even more. Even factoring in parents' "sweat equity," however, it's hard to believe Sheenway spends anywhere near the $6,000 or so spent per pupil by Los Angeles's public schools—"and you get more bang for the buck," Sheen adds.

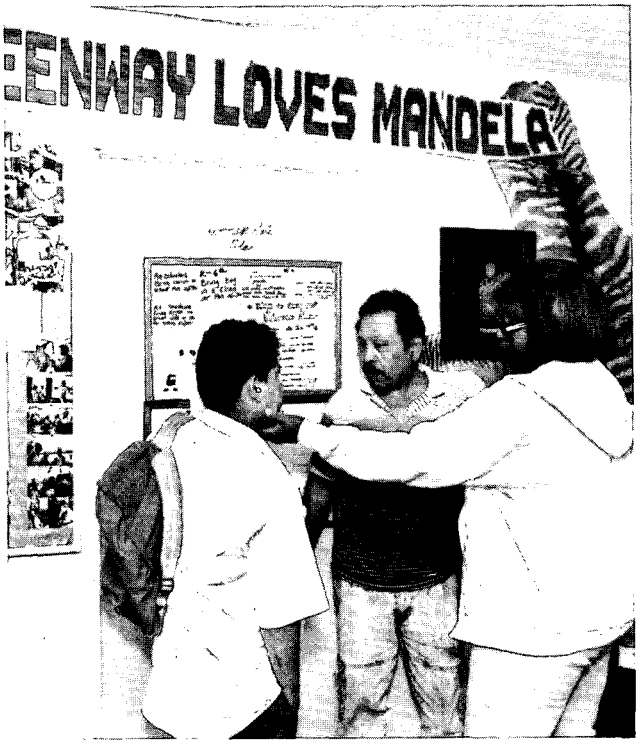
The "bang" is supplied in an open, or progressive, atmosphere. Sheenway operates without rigid class times or official grade levels. Sheen doesn't believe in standardized testing, and she keeps teachers focused on whether students can apply what they learn. "Learning by rote is not enough," she frequently tells them.

The faculty includes six paid teachers and 10 volunteers, who teach once or twice a week. The volunteers enrich Sheenway's curriculum with courses in history (taught by an L.A. policeman), dance, Chinese, architecture, and computers. Up to 80 students attend the school every year, with 12 to 15 children per teacher the usual ratio. Sheenway's school day is longer than most, and the school is closed for only two weeks during the summer.

Sheen measures the school's success in part by the success of its graduates. One girl started at Sheenway in elementary school. Soon after her arrival, she attacked Sheen with a pair of scissors. Now the student is finishing her business degree at the University of California at Santa Barbara and has told Sheen that she'd like to return as Sheenway's business manager—another role that the already overburdened Sheen currently fills.

The school has never received government funds, not because it fears regulation but because of the bad example it would set. "The community is already in a syndrome of welfare, of dependency," Sheen says. "Charity must begin at home."

Delores Sheen, LEFT, fills many roles at the Sheenway School, where "learning by rote is not enough" and many teachers are part-time volunteers.



JONATHON NOUROK

The differences between Sheenway and Saunders reflect the diversity typical of black private schools. In 1987, Ratteray surveyed more than 200 schools around the country. Her resulting study, *Dare to Choose*, reported that about half were secular schools and half religious. Their average size was about 49 students at elementary or middle schools, 110 at secondary schools. Their average annual tuition was $1,700, although five boarding schools skewed that average a little high. Less than 20 percent received any money from government, foundations, or corporations.

Some schools, like Xavier Prep High School in New Orleans, are Catholic schools with long and celebrated traditions. An all-girls school teaching up to 500 students a year, Xavier was founded in 1915 to provide Catholic education to black children. Eventually, it grew to include a college of arts and sciences, a pharmacy school, and a teachers college as well as secondary education. In 1932, Xavier Prep and Xavier University were separated. Graduates of Xavier Prep include a Xavier University president, a New Orleans mayor, and the first black person to hold a seat on the New York Stock Exchange. About 90 percent of Xavier Prep students go on to college.

Other schools range from progressive-ed schools to strictly religious ones, in which denominational doctrine suffuses the curriculum. Some cater to wealthier families, others focus on blighted inner cities, and still others try to integrate poor and rich kids in the same place with aggressive recruitment and scholarship strategies.

Schools pop up and close down with great frequency. Sometimes a group of parents with like-aged children either found a school or form the majority of a new school's student body. When those children graduate, the school can't replace them all, and it folds.

Many schools exist on a shoestring, unable to generate enough donations or other outside income to set a tuition price parents can afford. Two schools I had heard of and planned to visit no longer existed when I tried to call them. And most black private schools were, like Sheenway and Monroe Saunders, started over the last 15 to 20 years.

But not all. The Laurinburg Institute in Laurinburg, North Carolina, has one of the most interesting backgrounds of any private school. It was founded in 1904 by Emmanuel and Tinny McDuffie, two graduates of an Alabama teachers college under the aegis of Tuskegee Institute. The McDuffies, ages 16 and 17, answered the invitation of black farm workers in south-central North Carolina who wanted to educate their young children. Arriving in Laurinburg, the McDuffies turned for help to a successful white businessman (and ex-colonel in the Confederate Army) who employed many blacks. He gave them a piece of swamp land. They turned it into one of the most prestigious black prep schools in the nation.

Once, more than 1,500 students attended the school, from across the country and from many countries around the world—the current premier and governor of Bermuda, Sir John Swann, is a Laurinburg graduate. The school served as a gateway for students going on to traditionally black colleges across the South. In addition to academics, the school became known for music and athletics. Graduates include Dizzy Gillespie (school offices are now located in the "Gillespie Center") and basketball standouts like Sam Jones and Charlie Scott, the first black person to receive an athletic scholarship to a Southern university (he attended UNC-Chapel Hill, after being snubbed by a white restaurant owner during a recruiting visit

CHOOSING CHOICE?

In the wake of Polly Williams's pioneering school choice plan in Milwaukee, many minority-run private schools are considering the very real possibility that their states or localities may consider a similar idea. The Milwaukee plan gives a $2,500-per-student voucher to 1,000 low-income families, mostly black, who choose to send their children to one of the city's independent schools. At this writing, the plan has survived legal challenge from the state's education establishment, but the controversy convinced some private schools that participation in the voucher program could be dangerous. As a result, private schools did not offer enough voucher slots to accommodate all families seeking them.

As on many other issues, administrators and teachers at black private schools express a diversity of opinions on proposed choice reforms. Dolores Sheen of L.A.'s Sheenway School and Culture Center enthusiastically supports choice plans that would include private or religious schools. "I approve because I like the concept of parents making choices," she says, indicating that such a process would set a good example in inner-city communities.

Brenda Sewell, principal of the Monroe Saunders School in Baltimore, is more cautious. "It's hard for me to support that," she says, "because I believe that the public schools need to be supported." Bishop Monroe Saunders, Jr., shares her concern. "We don't want to be public-school bashers," he says. Still, he would support a carefully constructed plan and says his school would participate in one.

Frank McDuffie, Jr., director of the Laurinburg Institute, says that he probably wouldn't want to participate in a voucher-type program because of the prospect of increased government regulation. "If you dance to the music, then you've got to pay the piper," he says. "If you received aid, it would be hard to avoid their control."

Saunders shares McDuffie's concern, if not his conclusion. He says several years ago his school applied for state funds to help finance construction of a new building for its day-care operation. When Saunders found that getting state money meant the day-care center could not teach religion, he canceled the application. "That would have defeated our purpose," he says. Still, he doesn't think increased regulation is a *necessary* result of a choice plan.

It need not be, says University of Chicago sociologist James Coleman, if choice plans merely use current laws regulating private schools to determine their eligibility for government vouchers. But if further restrictions are placed on them, Coleman says, private and especially religious schools will be less likely to participate. "Public choice alone would not post nearly as significant educational gains," he warns. —*J.H.*

If the experience at black private schools is any guide, education-reform efforts that rely on state mandates are doomed. Diversity is the key to quality.

to Davidson College near Charlotte).

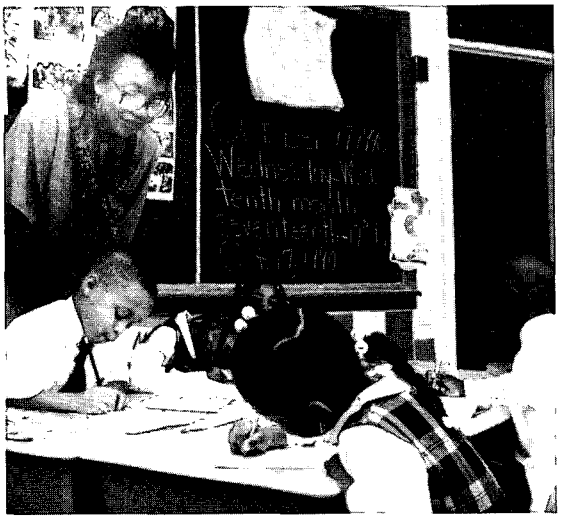
After the *Brown* desegregation case of 1954, things changed. Some black families could finally send their children to better public schools. In 1955, the state of North Carolina—emboldened by and perhaps a little disgruntled about the *Brown* decision—declared that the Laurinburg Institute would have to close. Its buildings, the state claimed, were "dilapidated." Frank McDuffie, Sr., the founders' son, simply mobilized volunteers to move the school, brick by brick, to a new location. A candy sale raised the money to buy cement to reconstruct the buildings. After the state saw how much support Laurinburg had, it decided to leave the school alone.

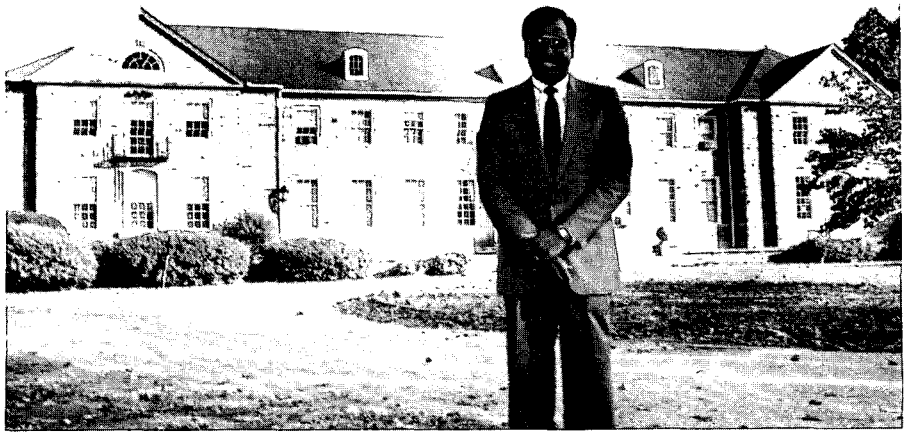
Today, 60 boarding students and 15 day students attend the school, which has a ratio of 12 students to one teacher. Since 1954, 87 percent of Laurinburg graduates have *completed* four years of college. Boarding students pay $6,500 for tuition, room, and board; 90 percent receive some form of financial aid. The Laurinburg Institute has never received government or church funds, though its program does include vespers and nondenominational chapel services. While a majority of the staff and many students are Southern Baptists, the diverse student body includes Catholics, Muslims, and others.

The school's current director is Frank McDuffie, Jr., the founders' grandson. He says that his teachers, many of whom could earn far more money as public-school teachers or university professors, choose to remain at Laurinburg because "it is a perfect laboratory setting to teach a group of people that public schools haven't been teaching well: black people."

Are the school's academic successes due to a careful process of selecting only likely achievers? No. Everyone who applies gets into Laurinburg. "I think that any screening process is a denial process," McDuffie says.

The Laurinburg Institute, McDuffie says, is a survivor, a remnant of the black private education that used to thrive throughout the South. In 1954, the school's athletic conference included 50 white private schools and eight black ones. In 1989, there were 300 white schools and one black—Laurinburg. "Integration didn't work," McDuffie contends, "it just decimated our institutions."





TOM JEMSKI

At the Monroe Saunders School, Principal Brenda Sewell, LEFT, values her time in the classroom. Bishop Monroe Saunders, Jr., BELOW, says the school stays competitive by controlling costs.

Critics, as a matter of fact, point to the racial exclusivity of some black private schools as one of their main drawbacks—or, at least, a reason why the model should not be duplicated. This comes at a time when there is an undeniable revisionism among black scholars, educators, and parents about the importance and success of school integration.

The Committee on Policy for Racial Justice, a panel of prominent black scholars chaired by Duke University historian John Hope Franklin, recently released a report that called for a focus on educational quality, rather than simply desegregation. "We must fight for a decent education for black children wherever they are, whether in desegregated, integrated, or all-black schools," the report concluded.

Some longtime integration advocates are clearly distressed by such a shifting focus. Reacting to the increasing skepticism among blacks about education reforms to date, *Atlanta Journal-Constitution* editorial writer John Head wrote that "near-nostalgia for segrega-

tion schools has increased among blacks in recent years" but that "integrated schools offer the best hope that our children...will learn to accept people who are different from themselves."

Many black private schools not only have almost 100-percent minority enrollment but consider that homogeneity crucial to their educational program. Some tout a "non-Eurocentric" approach that places greater emphasis on African history and the contributions of blacks to American history, culture, and literature than do the public schools. It is one of their selling points.

Ratteray, writing in *Dare to Choose*, reports that "some [parents] have responded to the theme of Africanness by embracing it wholeheartedly, feeling a need to return to their roots. Others have approached it with ambivalence, while some have rejected it completely." Diversity on this point, as on many questions of school curricula and organization, seems to be the rule among black schools and their clients.

By far the most common argument made against the claims of black private schools—or of private schools in general—is that their academic successes are due to the quality of the students they admit, not to the schools' curricula or teachers. If private schools attract students from relatively wealthy families or families that encourage learning, the argument goes, then these schools will obviously produce high-achieving students regardless of their instructional quality.

University of Chicago sociologist James Coleman, whose research in the early 1980s indicated that private schools are more successful academically than public schools, notes that critics originally questioned the existence of a private-school advantage at all. Now they debate whether the advantage is large—as he suggests—or small. "All the evidence is against it being purely a matter of selection," he says.

Coleman's research centered on Catholic schools, which account for approximately 40 percent of American private schools. More than two-thirds of black private-school students attend Catholic schools. Even after adjusting for family background, Coleman found, Catholic students had higher scores on standardized achievement tests and lower dropout rates than did public-school students. From grades 10 to 12, his research found, the gap between black and white student achievement narrowed in Catholic schools but widened in public ones.

How these results apply to non-Catholic, black-operated schools is unclear. Some researchers have tried investigating what types of families send their children to such schools. In 1989, Robert T. Carter of Southern Illinois University and Faustine C. Jones-Wilson and Nancy L. Arnez of Howard University studied the makeup of Washington, D.C.-area black families who send their children to private schools. Fifty-seven percent were two-parent families. About 65 percent of the families were middle-income or higher, while only 4 percent could be formally classified as "poor." And about 46 percent of survey respondents—and 43 percent of their spouses—were college graduates.

While this study seems to indicate that black parents who choose private schools are relatively wealthy and educated, the Washington case may not be typical of black private-school markets. Black families in Washington, whether they patronize private or public schools, are more likely than those in other cities to be professionals or to have middle-class incomes.

By contrast, a study of 54 inner-city Catholic schools by Marquette University researchers found that only 28 percent of families with children in those schools had incomes *above* $15,000. Since both religious and nonreligious black schools appear to have higher levels of achievement than public schools, the data probably demonstrate an understandable tendency for inner-city, lower-income black families to choose low-tuition Catholic schools instead of more expensive independent schools. This is one case in which averages may misrepresent reality: There are black independent schools that teach rich, well-adjusted kids, and there are others that do an equally good job teaching predominantly poor, at-risk kids.

Many experts—including Ratteray, Coleman, and Brookings Institution scholar John Chubb—attribute the success of black private schools to some of the factors common to Sheenway, Monroe Saunders, and other institutions: a clear, inspirational mission; fewer bureaucratic barriers and more teacher autonomy; community support; and the undeniably crucial role of parents. Without parents' fundraising and volunteer time, many of the schools couldn't survive financially. That is a powerful motivator for parental involvement, one that does not exist in public education.

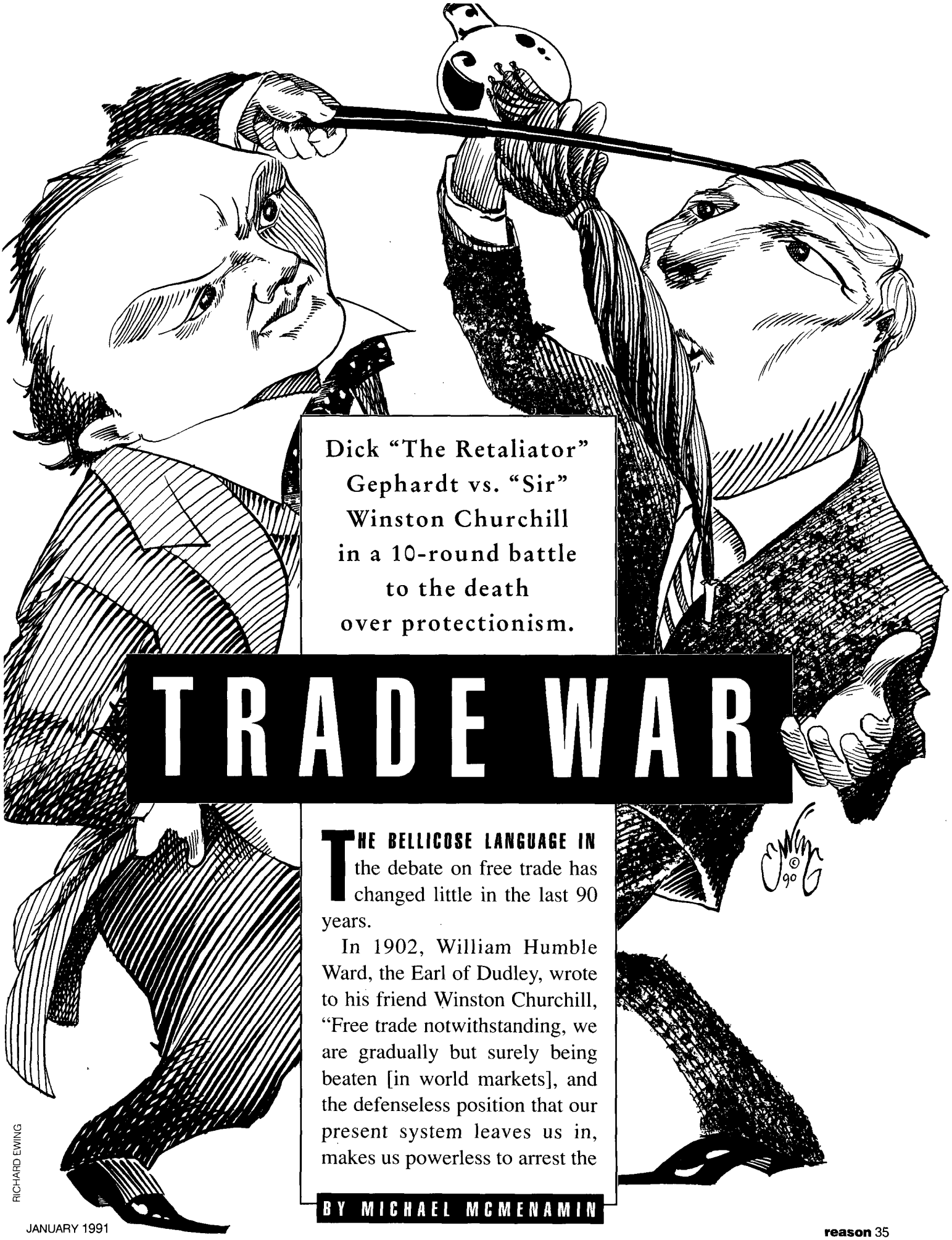
Researchers, reporters, even politicians may come and go at these black private schools—but their founders and teachers remain at the job, focusing not on regression analyses and political debates but instead on math tests and scraped knees. To these educators, the reason for their success is obvious: They determine what and how they will teach, and parents back up school classwork, discipline, and philosophy at home.

Frankly, people who support or oppose private education by and for minorities are likely to do so regardless of research trends. "I would be interested in seeing...how many parents have changed their minds about public and private schooling as a result of any studies," concludes one *Phi Beta Kappan* reviewer. "I'd like to know how many parents even know that the studies *exist*."

At Los Angeles's Sheenway, Dolores Sheen has spent more than an hour discussing her school and her approach to learning. She sums up: "It's not a good school just because you pass a test or meet a certain rule. It's what kind of students leave you. It's what parents think about it."

Passing parents, looking a bit harried as they lead their children out the door, nod in assent. They chose the school, and they believe in it. If parental support is as important as everyone—researchers, teachers, principals—says it is, then Sheen has already won half the battle.

Contributing Editor John Hood is publications and research director for the John Locke Foundation in Raleigh, North Carolina, and a columnist for the Spectator *(N.C.) magazine.*



Dick "The Retaliator" Gephardt vs. "Sir" Winston Churchill in a 10-round battle to the death over protectionism.

TRADE WAR

THE BELLICOSE LANGUAGE IN the debate on free trade has changed little in the last 90 years.

In 1902, William Humble Ward, the Earl of Dudley, wrote to his friend Winston Churchill, "Free trade notwithstanding, we are gradually but surely being beaten [in world markets], and the defenseless position that our present system leaves us in, makes us powerless to arrest the

BY MICHAEL MCMENAMIN

RICHARD EWING

downward tendency. A commercial war is being hotly waged against us and yet because we are cowards we refuse to avail ourselves of arms to combat our enemies. We are afraid of the temporary consequences of touching our free-trade policy and we therefore allow our enemies to ravage our territories unchecked."

Echoing Ward, Rep. Richard Gephardt (D-Mo.) proclaimed in a 1989 speech, "Our past reluctance to use retaliation has left us without a credible deterrent. The limited and judicious use of retaliation will keep our trading partners convinced that we mean business. Too many analysts have reacted to a raised voice at the bargaining table as if it were the last step before a trade war. If we adopted that same posture across the board we would have lost out long ago."

Now as then, those who oppose free trade claim they are for "fair trade." Many deny being protectionists and claim their calls for "retaliation" are really meant to further free trade by opening foreign markets.

As today's most prominent protectionist, Gephardt claims to want only to protect American industry from "unfair" competition: "We must forge a new trade policy that guarantees to our workers and business that if they make a good product at a competitive price, they will have the opportunity to sell it in foreign markets as freely as we allow those countries to sell their products in our markets. We must have free and fair trade."

> "Every citizen shall have the right to buy whatever he wants, wherever he chooses, at his own pleasure, without restriction from the state."
>
> CHURCHILL

Free traders, on the other hand, have long had the welfare of consumers at the core of their beliefs and rejected nationalistic slogans about foreigners "taking advantage of us:"

"Our free-trade plan is quite simple. We say that every [citizen] shall have the right to buy whatever he wants, wherever he chooses, at his own good pleasure, without restriction or discouragement from the State. That is our plan....In pursuit of this simple plan there came last year into [our country], from every land and people under the sun, millions' worth of merchandise, so marvelously varied in its character that a whole volume could scarcely describe it. Why did it come? Was it to crush us, or to conquer us, or to starve us, or was it to nourish and enrich our country? It is a sober fact that every single item, however inconsiderable, in all that vast catalogue of commodities came to our shores because some [citizen] desired it, paid for it, and meant to turn it to his comfort or his profit."

These words were spoken by a 28-year-old politician and war hero, a journalist and best-selling author of five books, son of a prominent New York socialite, grandson of the founder of the *Rochester Democrat and Chronicle*, self-educated in economics, and, at the time, a first-term legislator. The year was 1903, the country was Great Britain, and the speaker was Winston Churchill.

AT THE TIME, GREAT BRITAIN WAS THE WORLD'S preeminent economic power. Although its economy continued to grow, the economies of the United States and Germany were growing faster. As a result, Britain's share of world industrial production and world manufactured exports decreased, and the share of the United States and Germany increased. In other words, Great Britain's economic position at the turn of the century was strikingly similar to that of the United States today. And, then as now, many politicians blamed free trade.

So why not let Gephardt speak for himself and bring back that young free trader Winston Churchill to oppose him in a debate on free trade?

At first glance, Gephardt has the advantage. In the prime of his career, the former Eagle Scout has run once for his party's nomination for president and finished first in the Iowa caucus. He is the majority leader of the U.S. House of Representatives and is recognized as the chief spokesman for severe retaliatory tariffs and quotas against our trading partners. Widely respected by his congressional colleagues, he is still prominently mentioned as a future president.

By contrast, Churchill was only in his first term in Parliament in 1903. While his political career looked promising and he had achieved notoriety at an early age through his books and career as a journalist—including a daring escape from a Boer prison camp in South Africa—he was best known as the son of Lord Randolph Churchill, who had served briefly as Chancellor of the Exchequer and Leader of the House of Commons in 1886.

In 1904, Churchill resigned from the Conservative Party of his father and "crossed the floor" to join the Liberal Party. He switched parties because the Conservatives had abandoned their commitment to free trade. Leaving the Conservative Party hurt Churchill's reputation. As C.P. Snow observed in his biographical essay on Churchill in *Variety of Men*, "He entered Parliament at the age of twenty-seven, and within a remarkably short space of time became the most-hated politician in the country, with the honorable exception of Lloyd George."

GEPHARDT'S VIEWS ON PROTECTIONISM AND FREE trade are well-known from his presidential campaign, interviews, and speeches. But despite all evidence to the contrary, Gephardt rejects the "protectionist" label. He made this clear in a January 1988 interview with David Frost.

Q: "Isn't your trade amendment a form of protectionism?"

A: "It isn't. My approach says: Find the countries that have a pattern of unfair trade practices against the U.S. and dispatch the president to negotiate with them to get rid of those practices. If they won't do it, then give the president the power to begin

penalizing their products coming here."

But 90 years ago, Churchill saw that free trade benefits consumers while "fair trade" benefits special interests. "Protection is, in the first instance, undoubtedly beneficial to the protected trade whatever it may be. It is secured from foreign competition....This advantage is however obtained at the expense of the general consumer, who, being deprived of his right to buy in the cheapest market, has to pay rather more for homemade goods, and, in the second place, the quality of the goods is apt to deteriorate....Therefore the consumer will pay more for the articles which he uses and will perhaps not get such good articles in the end. His loss will be more or less severe in proportion to the amount of protection given and to the number of industries protected....We do not deny that industries may be made to flourish by artificial means in the power of the State to administer, but we contend that the Government must look to the well being of the country as a whole, not to that of any particular class or section."

Gephardt says little about what impact his trade policies would have on consumers. In February 1987, Gephardt appeared on "Meet The Press." When the questions turned to the harsh penalties contained in a trade bill he had authored and to the American consumers who would be hurt by it, Gephardt quickly tried to change the subject.

Robert Novak: "Let's talk about American consumers. Aren't you saying that the American consumer, that he is going to have limitations if he wants to buy a Japanese car because he thinks it's a better car?"

Gephardt: "Bob, do you think American consumers are helped by having foreign markets closed? Do you think ultimately the consumer, the voter, the constituent, the person in this country is helped when foreign countries treat us unfairly? I don't think so. If we're to have economic growth in this society, which I think is the most important goal we have to have, we've got to be on a level playing field. We aren't on one today, and the only way we're going to get it is to stand up for the rights of the people."

> "Sometimes, even with someone you respect and is your friend, you have to take action in your own self-interest to set a level playing field."
>
> GEPHARDT

TO GEPHARDT, "STANDING UP FOR THE RIGHTS OF the people" means retaliation or its threat. Gephardt contends there will be no casualties in the global trade war he proposes and that no one will really be hurt.

"It will never happen, because the minute we get tough, the other countries will finally change their behavior. And just look in the last year. We finally got tough with the Japanese on microchips, and they sat down and did a treaty with us. We got tough with the Europeans on agricultural products, and at the last minute they finally opened their market the way we had asked them to do it. We simply haven't been tough enough. This president stands up to the Soviets; he needs to stand up to the Europeans, the Japanese and our other trading partners and say: open your markets."

Indeed, far from a global trade war, Gephardt suggests his tough attitude on trade is no different from how he treats his wife, as he told Andrea Mitchell three years later on another visit to "Meet the Press."

Mitchell: "You think a trade war would be good for the United States?"

Gephardt: "We're not going to have a trade war. This I think is the misnomer. We have a marriage with Japan. We are interdependent. We cannot afford to go on opposite, independent courses. We have to get along. And this negotiation needs to be carried on in a way that we don't break up or have a problem. I said when I was in Japan a year ago that this is like a marriage. I often have disagreements with my wife, Jane. But we don't allow those disagreements to have us lose our respect for one another or our affection for one another. That's the kind of negotiation and the kind of relationship that we have with the Japanese, and I think we can do this without a trade war."

Taken aback, Mitchell attempted to allow Gephardt to portray a more benign picture of his domestic life, if not his attitude toward Japan.

Mitchell: "Congressman, I have to tell you, I'm confused by something you said earlier. You're in favor of imposing tariffs—punishment. Yet you said you don't want a trade war. Imposing tariffs on Japan is creating a trade war. I mean, you compared it to a marriage, and a disagreement in a marriage; you don't punish a spouse with tariffs. That's pretty tough action."

Gephardt: "But sometimes, even with someone you respect and is your friend, you have to take an action in your own self-interest in order to get a level playing field."

Churchill, however, openly criticized the theory that punishing foreigners with retaliatory tariffs would cause them to see the light. "There is a feeling that England has only to retaliate, and foreign tariff walls will immediately collapse. Well, but all the great nations of the world are Protectionist; they have been for 100 years past, and perhaps for many years before that, endeavouring by every dodge of reciprocity or negotiation to force each other to reduce their tariffs in each other's respective interests. Where have they come to? Have they reached Free Trade? On the contrary, their tariffs have risen higher and higher, and at this moment Free-trade England, which does nothing, Free-trade England, with masterly inactivity, occupies in regard to the nations of the world so far as tariffs are concerned, a position of advantage to which few of the Protectionist countries have attained and which none of them have surpassed."

Gephardt has often said that he does not really want to use

retaliation. He simply wants to negotiate on a bilateral basis with a tariff club in his hand. "Right now our trade negotiators are questioning if we should take retaliatory steps that we abhor and urge other countries to abhor. Our fear is that if we don't continue to reject retaliation we will lose our capacity to lead on these issues. I believe we must establish a new trade strategy and policy that contains the ability for necessary, albeit limited, retaliation to be used as a method of enforcement....With highly industrialized competitors like East Asia and Europe, we must look to the practicality of bilateral—wholesale—agreements that solve as many complex disputes as possible at the same time."

Churchill did not believe negotiations with protectionist countries would be any more successful than retaliation. "Now, do not let us imagine...that there is very much to be gained in trade by any negotiatory proceedings with foreign countries....What is the object of Protection? Gentlemen, the object of Protection is to protect. France adopts a system of Protection to protect France—to protect the French market—and what foreign nations desire to secure by their tariff systems is the practical and virtual monopoly of their home markets in regard to their special products. I think they are wrong; but I am not now arguing that point: I am discussing retaliation. It is very natural that they should be loath to change their policy. After all, if a lot of hothouse industries reared up under artificial conditions, are suddenly exposed on equal terms to the competition of our hardy out-of-door plants, widespread ruin must occur. In a country whose complicated trade and industry has grown up on the basis of Protection any sudden change could not fail to be disastrous, and would be resisted inch by inch by all the great interests concerned.

"The political parties in foreign countries are arranged for the very purpose of making sure that no sudden reduction of the tariff shall take place which will deprive their great organized vested interests of the monopoly of the home market."

Gephardt talks a good game about opening closed foreign markets to American exports, but a careful review of his record demonstrates that protecting selected American industries and their employees at the expense of American consumers is his real concern.

Gephardt came close to admitting this in 1987. "Meanwhile, more automobile workers have been laid off; more farm equipment businesses have closed down; more high-technology manufacturers and agricultural producers have found foreign markets closed by unfair trade practices.

"This situation has a fundamental impact on our national security, our economic future, and our self-image as a nation. We have watched America transformed from the world's largest international lender to its largest debtor; we have watched American workers turned out of factories and into jobs in fast-food restaurants; we have watched Americans begin to doubt their ability to meet foreign competition."

> "Every vote given for Protection is a vote to give Governments the right of robbing Peter to pay Paul, and charging the public a commission on the job."
>
> CHURCHILL

BUT CHURCHILL HAD LITTLE PATIENCE FOR SUCH special interest pleading. "The finished product of one trade is the raw material of another. By placing taxes on any of these commodities to raise their price you may indeed for a time help this trade or that trade, but it will only be at the expense of this or that other trade and to the impoverishment of the general consumer. No one can tell whose enterprise will be hindered or whose it will be that will be undermined. You may, by the arbitrary and sterile act of Government—for remember, Governments create nothing and have nothing to give but what they have first taken away—you may put money in the pocket of one set of Englishmen, but it will be money taken from the pockets of another set of Englishmen, and then the greater part will be spilled on the way. Every vote given for Protection is a vote to give Governments the right of robbing Peter to pay Paul, and charging the public a handsome commission on the job.

"To say that Protection means greater development of wealth is unspeakable humbug. The Democratic Party in America and the Socialist Party in Germany are made up of the poorest and least fortunate of these countries; and have they not learned by bitter experience that high protective tariffs, whatever profits they may confer on capital, whatever privileges they may bring to certain of the higher ranks of labour, are to the poor and to the poorest of the poor an accursed engine of robbery and oppression?"

Churchill was sympathetic to domestic industries, but he firmly believed open competition was in their best interests just as it was for consumers. "We Free Traders are often told that we should consider the producer more, and not think so much about the consumer. The great manufacturers are the largest producers in the country, but they are also by far the largest consumers. The more they produce, the more they have to consume. The bigger the mill, the more it costs to run. The manufacturer, therefore, wants one thing dear—the thing he sells—and a hundred things cheap which he uses. Now let anybody who is familiar with the working of some big mill—I don't care what kind of mill—think how much the cost of production would be increased if everything used in that mill cost 10 percent more. If the machinery cost more, and the oil, and the lamps by which the mill was lighted, and the building, and all the materials out of which it was made, and the paper on which the accounts were kept, and the glass in the spectacles of the senior partner—and so on."

Gephardt has much less faith in the market's ability to serve consumers. His recent comments on the Japanese purchase of

a substantial minority interest in Titanium Metals Corporation of America reveal much about his thinking.

TIMET accounts for about half of all U.S. titanium production. Two other companies produce the rest. Together, the three U.S. companies account for roughly 25 percent of world production while Japanese companies account for another 22 percent. Gephardt railed against the Japanese involvement with TIMET. "I remain concerned about the extent to which the U.S. Department of Defense is and will continue to be reliant on TIMET for its titanium needs. The increasing amount of foreign acquisitions of U.S. technology in our high tech companies is alarming."

But why would Japan, if it could, stop TIMET from trading with the biggest market in the world? And if it did, why does Gephardt assume that the other two U.S. manufacturers of titanium alloy would not expand their manufacturing capacity to meet demand, or that companies from other countries would refuse to sell to the United States?

Churchill addressed just this sort of thinking in a 1903 speech. "I think it was Burke who said of the French Revolutionists, that they forgot every set of circumstances. So it is with the fair traders. They watch the river flowing to the sea, and they wonder how long it will be before the land is parched and drained of all its water. They do not observe the fertilizing showers by which, in the marvelous economy of nature, the water is restored to the land."

> **"We must establish a new trade strategy and policy that contains the ability for necessary retaliation to be used as a method of enforcement."**
>
> **GEPHARDT**

Gephardt once suggested on "Meet the Press" that tariffs be imposed on all foreign goods to help balance the budget. "If we're going to bring in revenue, there are two sources we ought to look at: one is energy taxes, either a gasoline tax or an oil import fee; and, I would like to look at an across-the-board import fee on all products in order to bring in some revenue to help the deficit."

Churchill did not believe this was a path to prosperity: "The theory of Protection is either right or wrong. The doctrines that by keeping out foreign goods, more wealth, and consequently more employment, will be created at home, are either true or they are not true. We contend that they are not true. We contend that for a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle."

Gephardt views international trade as a battlefield, a zero-sum game where there are winners who prevail only at the expense of the losers. "The issue is not just trade or international competitiveness. That sounds like some kind of a game. What we have to talk about is what's happening to the fabric of the economy of this country. What's happening to the loss of jobs, the loss of wages, the declining standard of living. Our position, compared with the Japanese and the Germans and the others, we're losing the trade battle. And we're losing it not just because the trade rules aren't fair, we're losing it because we aren't preparing the people of this country to meet that competition....The American people want to know how we're going to win this competition and how we're going to hold our standard of living."

Churchill faced identical arguments from xenophobes in 1903. His prescient response demonstrates a grasp of peace and free markets that will forever elude Gephardt. "Free-traders declare that both the selling and the buying of these things were profitable to us; that what we sold, we sold at a good profit, for a natural and sufficient return; that what we bought, we bought because we thought it worth our while to buy, and thought we could turn it to advantage. And in this way commerce is utterly different from war, so that the ideas and the phraseology of the one should never be applied to the other; for in war both sides lose whoever wins the victory, but the transactions of trade, like the quality of mercy, are twice blessed, and confer a benefit on both parties. Furthermore, the fact that this great trade exists between nations binds them together in spite of themselves, and has in the last thirty years done more to preserve the peace of the world than all the Ambassadors, Prime Ministers, and Foreign Secretaries and Colonial Secretaries put together."

The Democratic Party has turned from its historic support of free trade and has made fair trade and protectionism a pillar of its program. And it has done so in the face of uncontested economic evidence that the post–World War II international economic order based on free-trade principles ushered in an unparalleled world prosperity from which the United States clearly received the greatest benefit.

A recent International Monetary Fund report demonstrates in practical terms just how prosperous the United States is in relation to other countries. The U.S. has 572 automobiles, 650 telephones, and 621 televisions for every 1,000 citizens. No one else is close. West Germany, for example, has only 446 automobiles, 641 telephones, and 377 televisions for every 1,000 persons. And Japan fares even worse: 235 automobiles, 535 telephones, and 250 televisions.

What is really going on here? Why have Gephardt and the Democrats spurned free trade in favor of protectionism and retaliation? In 1904, Churchill already had the answer. "Frankly, I believe that retaliation as now put forward is, from a commercial point of view, humbug. I do not believe that it is put forward from commercial motives, to benefit the trade of the country. I believe it has been put forward from political motives to suit the convenience of a party."

Thank you, Mr. Churchill. Thank you, Mr. Gephardt. ◼

Contributing Editor Michael McMenamin is a lawyer in Cleveland. A portion of this article was written in Kent, England, a few miles from Chartwell, Churchill's country home.

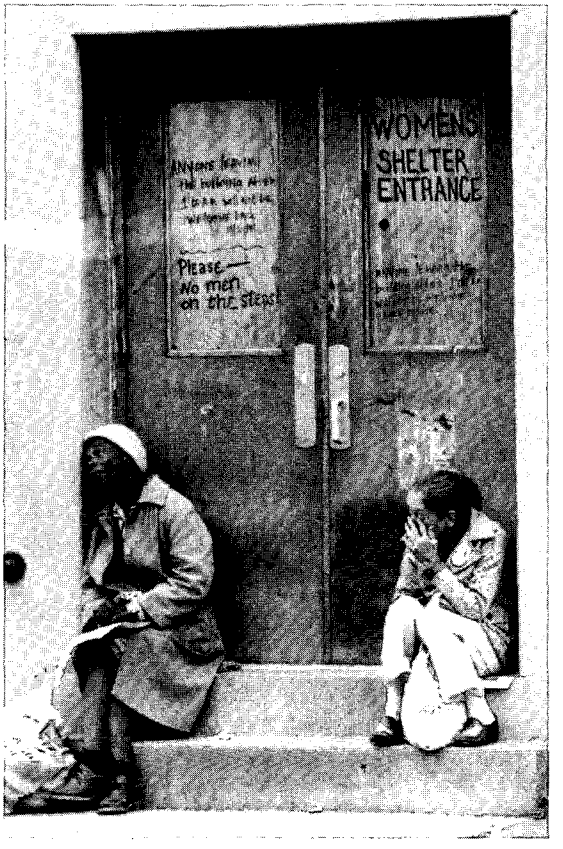
POOR ANALYSIS

BY MARTIN MORSE WOOSTER

In 1989, the citizens of Central and Eastern Europe finally began to free themselves from the specters of Adolf Hitler and Joseph Stalin. But in America the influence of the leaders of the 1930s has not faded. The welfare state constructed by Lyndon Johnson on foundations laid by Franklin Roosevelt still stands.

George Bush's welfare programs differ very little from Jimmy Carter's. In the 1980s, spending for most entitlements increased slightly, except for Social Security, whose budget rose dramatically. Federal job-training programs were cut substantially, but the money saved went to new programs for the homeless. Welfare spending, like most domestic policy, has been frozen as if in amber. The Reagan administration did very little to change the mix or nature of the federal welfare budget.

Intellectually, however, conservatives and libertarians gained a great deal of territory in the welfare war. Charles Murray's *Losing Ground* was the most influential book of social policy published in the 1980s. Murray was the first to demolish Great Society and New Deal welfare policies using the language and techniques with which those policies were built.



Homeless "families" are usually single women with children or unmarried couples traveling together.

Thus in 1990 liberals increasingly doubt that the welfare state is a guaranteed remedy for all the ills of the poor. One example of liberal rethinking is Mickey Kaus's hard-hitting piece in the May 7 *New Republic* arguing that income redistribution is not a good idea; the papers of the Progressive Policy Institute are another. In fact, looking through the pages of *The Nation*, *The Progressive*, *Dissent*, *Social Policy*, and *In These Times*, I could not find anyone willing wholeheartedly to defend Roosevelt's and Johnson's welfare policies.

This reluctance is due partly to simple laziness, partly to the impact of *Losing Ground*, and partly to the concept of the underclass and the allied notion that the problems of the poor are intractable. It's much easier endlessly to repeat a sound bite that isn't true ("The welfare budget was slashed during the Reagan Administration") than seriously to consider the ideas underlying the welfare state.

For example, consider the notion that "homeless families" are flooding into the nation's streets. Dan McMurry, a sociologist so dedicated to examining homelessness that he posed as a homeless man for 18 months, reported his findings in the October *Chronicles*. McMurry discovered that two-parent families with children represent a very small share of the homeless. Most "families" in shelters are "fragments of relationships"—single mothers with their children or unmarried couples traveling together. Indeed, some "family" shelters exclude men.

The two most reliable surveys of the homeless, McMurry notes, found very few couples with children. Peter Rossi, in *Down and Out in America*, writes that "the homeless have failed in the marriage market about to the same extent as they have failed in the labor market." A 1989 Urban Institute report concluded that 79 percent of the homeless were single men, 10 percent single women, 9 percent women with children, and the remaining 1 percent men with children. The Urban Institute, McMurry writes, found no "families as we generally think of the term."

Why do these "fragments of relationships" hit the road? McMurry believes that, in most cases, the head of a homeless "family" is a "1990 female version of the bum, wino, and tramp of earlier times." She is most likely to be in a shelter not because of economic necessity but to escape the "oppressive daily grind" of life.

McMurry's article helps to refute the pernicious notion that people become and stay poor because they are victims of Reaganomics, greed, or fate. Liberals tend not to realize that many poor people become poor because of actions they freely choose to take—dropping out of high school, not marrying, having babies. McMurry's deconstruction dispels these romantic illusions.

While liberals were rethinking their time-honored positions on welfare, conservatives were discovering two "facts" about poverty, one true and one false. The true discovery, first brought to light by Robert Woodson and Cicero Wilson, is that many people in low-income communities are successfully climbing the economic ladder. The poor are not simply a horde of tax-sucking welfare

UPI/BETTMANN

cheats who need a stern kick or two to come to their senses. The wrongheaded notion is that the welfare state is inevitable, and the best that we can hope for is a conservative version of it.

Although policymakers have used the term *conservative welfare state* for years, they've never clarified how it differs from the social-democratic welfare state. So I am grateful that *Policy Review* editor Adam Meyerson, in the summer issue of his journal, has tried to determine what form of welfare conservatives should advocate. He argues that conservatives should support temporary help instead of the dole. Giving a single mother three or four years of welfare when she has a child is, to Meyerson, acceptable; giving a single mother 18 years of subsidies per child, on the other hand, is intolerable. Meyerson also advocates shifting the welfare burden to states and cities as much as possible and finding nongovernmental solutions when feasible.

But unemployment and welfare programs administered by the states are as tangled in red tape and mindless bureaucracy as any program staffed by federal employees. While "shaking up state and local bureaucracies" may be a good idea, experience shows that, unless the bureaucracy's budget is cut, the "shakers" leave and the careerists stay. Most of the Reaganites who thought they could wield an ax against the federal budget found themselves on the street.

Meyerson rightly calls for more research on "private-sector and community-based solutions to social problems." Because conservative foundations do not have the budgets of a Ford Foundation or Carnegie Corp., such research is scarce. But Meyerson has made a substantial addition to conservative arguments on welfare by publishing, in the fall *Policy Review*, Marvin Olasky's analysis of the origins of welfare spending.

Olasky, a journalism professor at the University of Texas, explores how Victorian and Edwardian Americans worked with the poor. Far from being stonehearted social Darwinists, Olasky explains, most Victorians believed that people who were down and out should be helped. But they tended to oppose handouts. Alms, observed reformer Jacob Riis, are "degrading and pauperizing." City spending on welfare, said the Rhode Island Board of State Charities and Corrections, "does more hurt than good, and makes more paupers than it relieves."

Aid, the Victorians felt, should be personal and direct; volunteers should help only three to five people at a time. Because aid givers knew the poor intimately, they were able readily to differentiate between the truly destitute and pretenders.

Victorians favored personal, direct aid from volunteers; but 20th century professional social workers disparage voluntarism. They do clerical work instead of directly assisting the poor.

In the early 20th century, however, these attitudes changed. Social work became professionalized. Armed with their master's degrees or doctorates, the heads of the leading charities increasingly believed that volunteer work was inefficient and lowly, and they made sure that people who signed up at their agencies to help did clerical work instead of assisting the poor. Furthermore, many Christian leaders thought that people could best serve God through an abstract desire to save the masses, usually by boosting government spending on poverty.

To aid the poor, Olasky suggests, we should once again think of them not as "clients" or as masses, but as individuals who are best served by the stern but loving aid of those who are better off and who freely donate their time. But how should this be done? In the May *Washington Monthly*, Jonathan Rowe and Stephen Waldman describe one promising idea, "service credits."

Proposed by Edgar Cahn, a law professor at the University of the District of Columbia, service credits work like this: A volunteer bank pays elderly people who perform services for their peers—taking them to the store, mowing a lawn—with credits they can trade for similar services or for discounts on health insurance. Currently in use in five states, service-credit programs are not only popular, they're cheap. In Miami, one full-time employee, one part-time employee, and 10 VISTA workers supervise nearly 1,000 volunteers.

Service credits take the person-to-person approach to aiding the poor that charities have avoided for more than 50 years. Most people, Rowe and Waldman report, don't turn in their credits. They're simply grateful for a chance to make a difference in other people's lives. The authors also show that only private organizations can make sure that service credits work properly. When the state of Florida attempted to administer service credits, its welfare chief, Margaret Lynn Duggar, sabotaged the effort.

Duggar feared that volunteers would threaten the jobs of her social workers (how dare uncredentialed amateurs "perform such technical tasks as cooking lunch for a bedridden man!"). So she imposed so many restrictions that the program was not launched until a month before it was supposed to expire. Having killed the program, the dutiful bureaucrat then spent $20,000 in tax money to poll other state departments about whether service credits work.

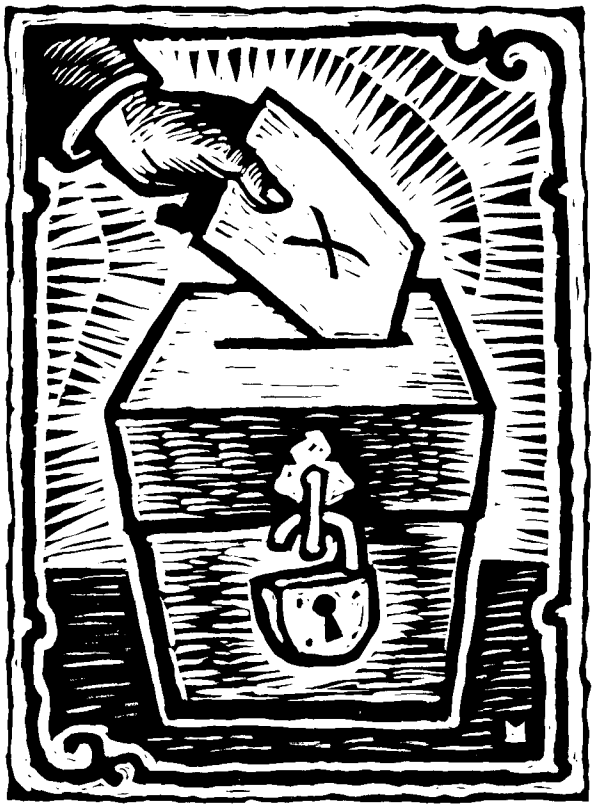
Olasky, Rowe, and Waldman are all on the right track. The debate over welfare policy has been grounded in a false dilemma: a choice between existing welfare programs and nothing at all. But Americans are a charitable people. Their inclination to help offers a third alternative. The vast potential for private assistance would be obvious if we saw the poor not as clients, patients, or excuses for bigger budgets, but simply as fellow men and women whose problems are as diverse as our country.

Martin Morse Wooster is the Washington editor of REASON.

BUTTER AND BALLOTS

BY JULIO MARQUEZ

Mexico is in the headlines. After nearly a decade of economic stagnation, mounting foreign debt, and rapidly decreasing standards of living, the Mexican economy has begun to flourish under the administration of President Carlos Salinas de Gortari. Through an aggressive program of privatization and deregulation, Salinas has cut inflation from 80 percent to under 20 percent. Employment is up. For three consecutive years, the Mexican stock market has outperformed every other market in the world. And for the first time since 1982, real wages are on the rise.



This rapid progress has made the Mexican resurgence an international media event. "Mexico is on its way to becoming an economic powerhouse," declared *Forbes*. "Mexico is back," announced the *Wall Street Journal*, calling Salinas's team "the best in the world." *The Economist* declared Mexico "a model debtor nation" and Salinas's progress "astonishing" and "remarkable." Even traditionally restrained publications have jumped on the bandwagon. "In spite of all his difficulties, President Salinas's performance has been near faultless," observed *The Financial Times*.

But Salinas, a former budget minister with a Harvard Ph.D. in economics who had never held elected office before, still faces a major challenge, one that has been largely overlooked by the media: democratization. Unless Mexico rids itself of the authoritarian, one-party system that has ruled it for 62 years, many of the spectacular advances in the economic realm may evaporate in the midst of social upheaval, as an increasingly urban, affluent, and well-informed population demands greater political rights.

Unfortunately, Salinas never really earned the presidency he assumed in December 1988. Although his ruling Institutional Revolutionary Party (PRI) officially received 50.9 percent of the vote in 1988 (the PRI's lowest total since 1926), outside observers agreed that the government-run Electoral Commission rigged the final tally.

The liberal Cuauhtemoc Cardenas of the Democratic Revolutionary Party (PRD) seems to have swept southern and central Mexico. The conservative Manuel Clouthier of the National Action Party (PAN) scored well in the north and with the middle class. Salinas may have even placed third, backed only by the bureaucracy and a few rural strongholds.

Immediately after the elections, there were a series of huge protests against Salinas's victory. But the country has come to accept the official results. Salinas's promise to institute democratic reforms and guarantee free elections may have placated the people.

But the promised reforms have proved illusory. The PRI has granted only one major local election—in Baja California—to the opposition. And the evidence of fraud in all elections continues to mount. "In all the time I have been working in the electoral business, we have never been able to collect as much proof of irregularities in the process as nowadays," says Jorge Alcocer, a PRD leader. He describes tactics ranging from last-minute changes to voter registries to the unsolved murders of four PRD observers.

Even the Organization of American States, in a rare stance, recently criticized the Mexican electoral process and sided with the opposition in various contested elections. And the most unsettling development is the death of Clouthier, who had become a very powerful force for change through his hunger strikes and post-election rallies. He died under mysterious circumstances in a midnight car accident on a secluded road, officially the victim of reckless driving.

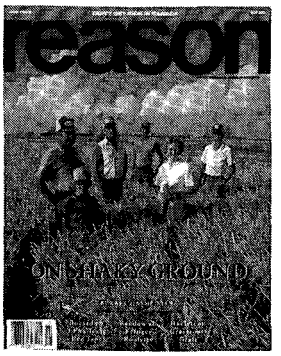
Salinas has managed a delicate balancing act. On the one hand, he is modernizing and developing Mexico and bringing new optimism to his people. On the other, he is clearly exploiting his authority to remove his political adversaries.

"Police abuses, electoral fraud, the complete lack of a modern and clean system of administration of justice are not accidents or errors of the regime," writes Mexican commentator Jorge Castañeda. "They are a substantial part of the modernization of the authoritarian scheme, and they constitute the central contradiction in Salinas's avowed goals."

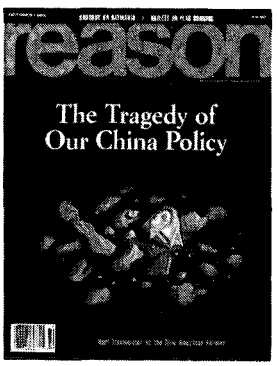
Perhaps Salinas thinks that only a single, unifying party can direct and control the country. But as the majority of Mexicans sample economic freedom for

BONNIE MACKAIN

"Government agents befriended traders, visited their homes, and shared their meals. They attended their parties, played with their children, and won their trust. They deluded the defendants and then ensnared them in order to prosecute them for the moral equivalent of jaywalking."
—TRADER X, "SNARING THE CHICAGO 46"



"Every five years in Peru we have elections. We elect a dictator every five years. You've confused it with democracy, and so have we."
—HERNANDO DE SOTO, "WHAT'S WRONG WITH LATIN AMERICAN ECONOMIES"



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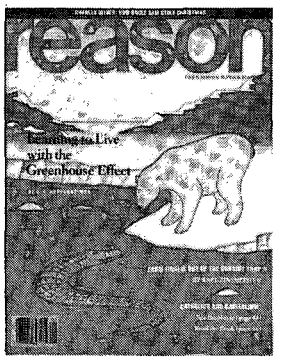
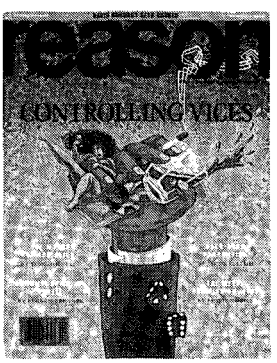
—THE 1990 MEDIA GUIDE

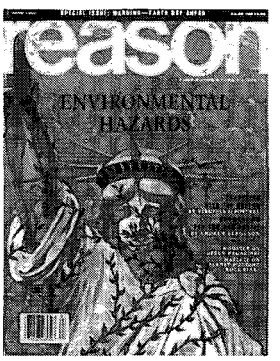


"For all the right-wing grousing about Washington and the majesty of the government 'closest to the people' (yeah, like right inside their wallets), state and local governments in America are notoriously shady enterprises, demonstrating the twin evils of local monopoly and a cozy-with-the-powers press."
—THOMAS W. HAZLETT, "LOCAL HEROES"



"When the law determines vice and virtue, everyone competes to determine the law. We end up with a struggle between those who can't tolerate the idea that anyone anywhere is having fun and those who can't tolerate the idea that anyone anywhere disapproves of their fun."
—VIRGINIA I. POSTREL, "SIN AND DECADENCE"

"Dr. Ehrlich was an entomologist by training, and some immediately recognized that after many years of rigorous study, he had lost the capacity to distinguish between an army of hideous little arthropods swarming over his desk in a Stanford laboratory and an upwardly mobile population of Homo sapiens building tract houses in Palo Alto."
—ANDREW FERGUSON, "APOCALYPSE WHENEVER"



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MEXICO

the first time in many years, the demand for political freedom will grow. Now that the economy is booming and public sentiment is once again genuinely favoring the PRI, a window of opportunity exists to convert the party into a real political organization with grass-roots leaders, divorced from the government and incapable of using intimidation.

That President Salinas has not chosen this path baffles some foreign analysts. Americas Watch, the U.S. human rights group, recently concluded that "this pattern of excessive violence and abuse can only mean that either the Mexican government endorses it or that it has lost control."

Some argue that Salinas is indeed a true reformer but is waiting to establish democracy until his economic policies have produced a lasting effect. Opening up the political process too soon might interfere with the orderly execution of his restructuring plan and jeopardize the economic recovery. Robert Pastor, President Jimmy Carter's adviser on Latin America, says, "There isn't any question that President Salinas wants to modernize the party." It's all just a matter of time, asserts Pastor.

As long as Salinas reigns unchecked, freedom and progress remain vulnerable to the whims of politicians.

But others argue that democratization could actually further the economic growth that Salinas wants. "Democracy would return the initiative to society and would liberate the creative powers of the people," claims writer Octavio Paz, this year's Nobel Prize winner in literature. And Castañeda believes that "Salinas could implement real change in 24 hours....He's just not doing it."

Indeed, a much-heralded PRI reform conference held in early September failed to establish any significant changes in the party structure. The conference defeated initiatives that would have kept the president from setting party policy and choosing candidates. Rodolfo Gonzalez Guevara, a long-time member of the PRI and a leader of the reformers, called the conference "the worst masquerade of its [the PRI] history," Gonzalez has since resigned from the PRI.

Opinion polls show that most Mexican voters would support Salinas if elections were held today. The 1988 election was more of a backlash against the PRI and its quasi-dictatorial ways than a rejection of its candidate or platform. This explains, in part, why the post-election turmoil failed to produce any real change. But it also underscores the importance people place on the electoral process itself. By failing to introduce real reforms Salinas endangers his party and his economic policies.

As long as Mexico's president continues to enjoy virtually unchecked power, freedom and progress remain vulnerable to the whims of politicians with no accountability. This can in turn give rise to any one of the three following scenarios, all of which spell economic decline: 1) Salinas's reforms could be quickly overturned by the next PRI administration; 2) rising political unrest could damage economic stability in spite of sound government policies; or 3) new, less able opposition leaders may be violently swept into office as the Mexican people, taking economic well-being for granted, simply get tired of impositions.

"We now live in a different Mexico," writes journalist Ernesto Teissier, author of the recent Mexican best-seller *Never Again*. "Changes will come peacefully or violently, but nothing will stop them."

Salinas has made real changes in the Mexican economy—changes that have benefited the country immensely. But his reluctance to give the people real democracy may ultimately jeopardize both those reforms and his presidency.

Julio Marquez, a Mexican citizen, is a 1990 graduate of the Harvard Business School. He is pursuing a career in Latin American finance.

PRISONER EXCHANGE

BY JAMES BOWMAN

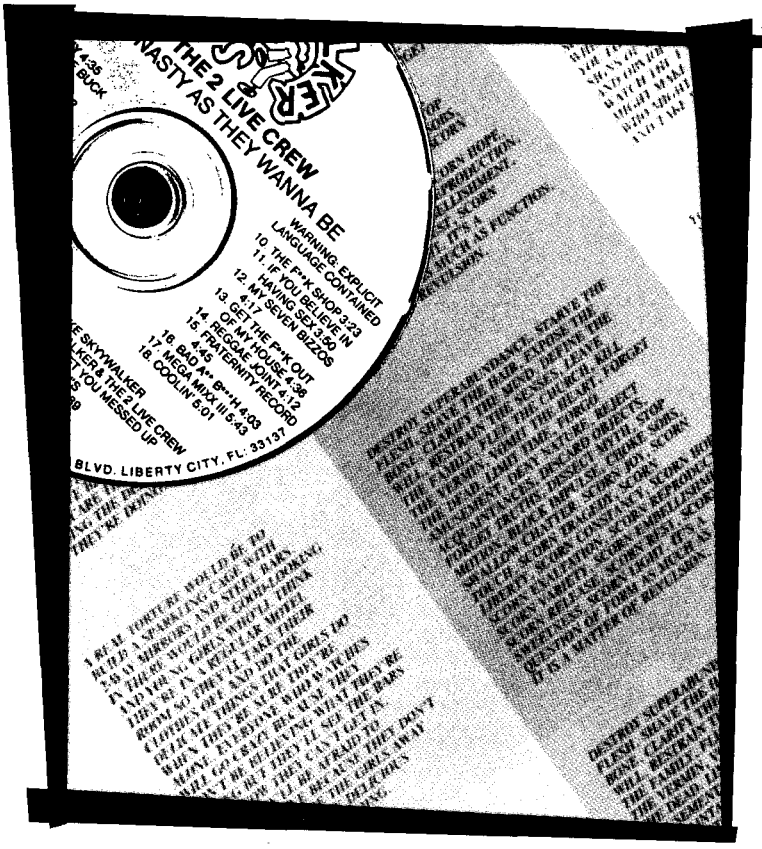
As I watched last fall the legal travails of The 2 Live Crew and its lead singer, Mr. Luther Campbell, and considered the possibility of their incarceration, it occurred to me to propose on behalf of rap fans everywhere an exchange of prisoners. In return for the release of Luther and the Crew, those of us who are still free should offer to give up to the Broward County authorities that shining beacon of the official culture, poet Jenny Holzer.

It's a good deal for everyone, as a brief comparison of the work of these *artistes* will show. Luther Campbell's poetry, unlike that of Ms. Holzer, will bear only sparing quotation. Here, as nearly as I could make it out from his album, *As Nasty as They Wanna Be,* is a sample of Mr. Campbell's latest verse:

You said it yourself,
You like it like I do:
Put your lips on my ****
And suck my ******* too.
I'm a freak in heat,
A dog without warning
My appetite is sex
'Cause me so horny.

****, **** you, **** me
Me **** you, **** me
**** you, **** you, **** me.

[Ostinato of female grunts:]
Uh, so horny,
Uh, so horny,
Uh, so horny,
Me love you long time.


THE 2 LIVE CREW
AS NASTY AS THEY WANNA BE
WARNING: EXPLICIT LANGUAGE CONTAINED
10. THE F**K SHOP 3:23
11. IF YOU BELIEVE IN HAVING SEX 3:50
12. MY SEVEN BIZZOS
13. GET THE F**K OUT 4:36
14. OH MY HOUSE 4:12
15. FRATERNITY RECORD
16. REGGAE JOINT 4:39
17. BAD A** B**CH 4:45
18. MEGA MIXX II 5:43
18. COOLIN' 5:01
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The 2 Live Crew is harmless to the artistic consciousness. Jenny Holzer, by contrast, paralyzes the brain.

Well, it loses some of its charm when it is (mostly) reduced to cold print and robbed of its syncopated drumbeat, but its originality and, um, forcefulness should be apparent even through the veil. Unfortunately, Mr. Campbell has fallen afoul of the authorities on account of the words which here appear as asterisks.

It's sad that they are arresting poets now, and I am prepared to believe that we are back in Amerika. Just as the iron curtain has come down and there is an explosion of free expression in the former homeland of oppression, the USA has reaffirmed its longstanding fascist tendency and resumed the lead as World's Most Philistine Nation. Even my local cultural boutique, where the muzak is by Vivaldi (I never knew that he wrote so many flute *obbligati*), was loath to sell me a copy of *As Nasty as They Wanna Be,* although I explained that it was for journalistic purposes only. The thought police of the Moral Majority, it seems, are on the march again.

But if they have to persecute poets, I submit that they have picked the wrong one. Let us not reopen the whole boring business of free speech and the First Amendment. I will take no sides on the issue of whether censorship of the arts is a good or a bad thing. All art is the quotient of inspiration divided by the limitations of the medium—in this case language—though the limitations imposed by prudery seem particularly tiresome and unnecessary. Perhaps the impulse to socialize art is only one of those cyclically recurring natural phenomena, like the flooding of the Nile, which brings with it both good and bad. If we take it as a given, however, that every so often we feel that we have to throw a poet in jail, let me propose that our victim this time around should be not Luther Campbell but Jenny Holzer.

Ms. Holzer, for those who could not make it to the Venice Biennale this year and who missed her big show at the Guggenheim Museum last winter, is an artist who deals in mock-monumental stone slabs and parody advertising on which has been inscribed Words to Live By of her own formulation: Roy Lichtenstein meets the *Old Farmer's Almanac.*

She is especially fond of LED ribbon-light displays that blink out banal, vicious, false, or meaningless messages: MUCH WAS DECIDED BEFORE YOU WERE BORN; STUPID PEOPLE

HOLZER ART: GENE OGAMI

SHOULDN'T BREED; YOU ARE TRAPPED ON EARTH SO YOU WILL EXPLODE; THE MOST PROFOUND THINGS ARE INEXPRESSIBLE. This would have seemed like quite a good idea, though perhaps not in the da Vinci league, but for the fact that someone seems to have persuaded Jenny that her own messages were among the "profound" things of the Earth. As Dr. Johnson said of the mystic, Jacob Boehme: "If Jacob saw the inexpressible, Jacob should not have tried to express it."

As a result of finding herself transformed from pop artist to pop poet and philosopher, she has been running her little slogans off like counterfeit money. Some are Holzerized versions of other people's *bon mots*—PROTECT ME FROM WHAT I WANT; ABUSE OF POWER COMES AS NO SURPRISE; PRIVATE PROPERTY CREATED CRIME; THERE'S NOTHING EXCEPT WHAT YOU SENSE—while others advertise a fashionable liberal political agenda—CLASS STRUCTURE IS AS ARTIFICIAL AS PLASTIC; OFTEN YOU SHOULD ACT SEXLESS; INHERITANCE MUST BE ABOLISHED; IF YOU HAD BEHAVED NICELY THE COMMUNISTS WOULDN'T EXIST.

In addition, there is a lot of quasi-moral exhortation that appeals to the American fondness for self-improvement: PUSH YOURSELF TO THE LIMIT AS OFTEN AS POSSIBLE; A STRONG SENSE OF DUTY IMPRISONS YOU; A POSITIVE ATTITUDE MAKES ALL THE DIFFERENCE IN THE WORLD; ANGER OR HATE CAN BE A USEFUL MOTIVATING FACTOR.

I don't know why, but there is something much more horrifying to me about this generic poetry-cum-philosophy that is bought, like the interior decorator's bookshelves, by the yard than there is about verbal images of Luther Campbell's ****, or even his *******. Certainly I would have been more inclined to support the National Endowment for the Arts if it had sent The 2 Live Crew rather than Jenny Holzer to represent America at the Venice Biennale. The Crew's native woodnotes wild are at least harmless to the artistic consciousness. Jenny Holzer, by contrast, paralyzes the brain like some slow-acting poison.

A spell in prison would do nothing but good for Jenny Holzer, whereas Luther Campbell, like the glorious U.S. Army, has already got to the point of being all he can be. Rap in general still doesn't quite understand this. KRS-One of Boogie Down, for instance, raps about ancient Greece that "Any philosopher at that time was a criminal / He'd be killed very simple / This indicates that Greece had no respect / For science or intellect."

Western art is an industry organized around a small group of producers and consumers—a closed society whose contact with the outside world is largely limited to subsidies from universities, foundations, and the NEA.

Even allowing for exaggeration about the number of executed philosophers, this misses the point. Socrates was killed precisely because Greece *did* respect—and fear—science and intellect. It is because the United States doesn't that we let so many philosophers, poets, and artists go free. And they, in turn, because they are not taken seriously by their contemporaries outside the profession, continue to produce the kind of insipid trash in relation to which Jenny Holzer is what Michelangelo is to religious art.

Well, that is the price we pay for freedom and tolerance, which most of us would say is worth a high price. But if we are going to take up persecution again, let us at least get some benefit out of it. Because so many of our poets and artists have forgotten that words and images can have consequences in the real world, the words and images that they produce are as irrelevant, brain-numbing, and masturbatory as Jenny Holzer's. Apply a little political repression and, deplorable as it may be in itself, watch the withered flowers of art revive as they did in the relative artistic excitement of the Soviet Union under the previous dispensation.

If you think I exaggerate, speak to some of the newly liberated artists of the Eastern bloc. In a recent film about Soviet art, a number of clearly talented painters expressed their horror about what they had observed of the art world in the West. Some even expressed their feelings of nostalgia for, as one of them put it, "the good old days of harassment and persecution." Another said: "We used to talk about God, life, the universe. Now there is one subject and one subject only: money."

What these genuine artists were reacting against was the intolerable self-containedness of Western art. It is an industry organized around a small group of producers and consumers, a closed society whose contact with the outside world is largely limited to subsidies from universities, foundations, and the NEA. The rest of us tolerate this situation to keep them happy and to convince ourselves of our own virtue.

But we are no more virtuous than they are happy in holding on to the present arrangements. Jenny Holzer is the *reductio ad absurdum* of decorative art masquerading as the real thing. Throw her in jail, say I—*pour encourager les autres*. Look at Salman Rushdie. He used to write silly, ****-pulling fantasies like *The Satanic Verses* until the late Ayatollah put out a contract on him and taught him that words are not just playthings for the amusement of a few like-minded connoisseurs; they are the means by which ordinary minds, to say nothing of sacerdotal and political imperia and the world most safely identified as "real," are permanently affected. I have no doubt that his next novel will be considerably the better for the lesson.

James Bowman is the American correspondent for The Spectator *of London.*

TESTSCAM

BY ROBERT G. HOLLAND

When the Waterloo, Iowa, factory for which he had worked 16 years closed, shipping and receiving supervisor Larry P. Holman gladly accepted his sister's recommendation that he move to Richmond, Virginia, where she figured there were plenty of industrial jobs. Holman applied for a job with the James River Corp., which referred him to the Virginia Employment Commission for a job aptitude test in December 1989. But unbeknownst to Holman, the test was rigged against him.

Holman took the General Aptitude Test Battery. A handout accompanying the test explained that he would receive percentile scores of 1 to 99 in each of five job categories, and that a score of 50 would mean that "you scored higher than 49 percent of the people nationwide who have taken the test."

That was a lie.

In 1981, the U.S. Employment Service, a branch of the Department of Labor, had given state-run employment services a new system for converting actual scores on GATB to percentile rankings. Bureaucrats and approving social scientists called it "within-group scoring." In truth, it was a system of scoring based upon race. No longer would job seekers be graded purely on their individual merit against all other candidates. Instead they would be measured strictly against members of their own race.

Here's how it worked. Suppose that a company had an opening for a bookkeeper and asked the state employment service to refer the top-scoring GATB-tested applicants. Suppose further that four candidates—a black, a Latino, an Asian, and a white—each had a composite raw score of 300. The black applicant would receive a converted score of 83, the Latino candidate would get a 67, and the white and Asian applicants, lumped together in an "all others" category, would receive a dismal score of 45.

Neither job seekers nor job providers would ever see the real scores from which these percentiles were concocted. The purpose of secretly manipulating test results, say USES officials, is to eliminate the "adverse impact" on certain minorities resulting from the fact that they tend to score lower on standardized tests than members of other racial groups.

The race-norming supposedly results in equal referrals by compensating for disparities in group averages. But a 1989 National Academy of Sciences report acknowledged that the formula for converting scores was based on data that were as much as 17 years old and "by no means nationally representative samples." So the test results may have been slanted toward minorities even more than the USES intended, since minority averages on tests such as the SAT have risen during the past two decades.

The Supreme Court's landmark *Griggs* decision of 1971 requires employers to show that intelligence tests and other requirements that disproportionately screen out minority job candidates are related to job performance. In response to *Griggs*, USES set out in the late 1970s to help businesses that found it hugely expensive to devise and validate hundreds of tests for different jobs.

Psychologists John Hunter of Michigan State University and Frank Schmidt of the University of Iowa took the GATB, whose job-relatedness was well established, and found a way to generalize its validity for 500 positions to all 12,000 occupations in the U.S. economy. They called the new system Validity Generalization.

But USES took the court dictum a giant step further and determined that even tests that accurately predict job performance must be finagled toward equal outcomes to avoid adverse impact on minorities. USES piggybacked within-group scoring onto V.G. in an attempt to eliminate adverse impact, even though the Supreme Court had said adverse impact was illegal only if the test was not job-related. Thus USES intentionally subverted a test designed to eliminate discrimination to defeat that very objective.

Had USES at least leveled with individuals about the nature of this social experiment, it might have been entitled to credit for good intentions. But when Larry Holman took the test in 1989, he knew nothing about the race-based scoring. Indeed, USES told none of the mil-

JOHN F. MARTIN

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lions of people who took the test between 1981 and 1990 that the scores were racially biased in favor of blacks and Latinos. The truth did not come out until the summer of 1990, when a government whistle-blower gave the Richmond, Virginia, *Times-Dispatch* a copy of the percentile conversion tables.

The effect of this social experimentation on individuals like 47-year-old Larry Holman was sometimes devastating. Unconverted, Holman's scores might have been good enough to win him a job interview. But converted, the scores that arrived in the mail from the state job service were a disaster. Soon Holman received a letter from the James River Corp. stating that because of his low GATB scores, it was placing Holman's file on "inactive" status.

In adjusting test scores for race, the system assumes that the causes of group disparities are not poor education and limited opportunities, but race alone.

"It was one of the hardest things I can remember in my life," he says. Holman was unemployed, and now the government was telling him he was stupid; and a major employer was telling him he wasn't wanted. He says he doesn't think he could have pulled through that bleak period had it not been for the support of his sister and brother-in-law. Fortunately, Holman's story had a happy ending when the Waterloo plant reopened and his old boss called him back to work—with a raise in pay. And no one even asked for his GATB score.

Ironically, since Holman says he is "one part Indian—one very small part," he could have registered to take the GATB as a Native American and received hefty bonus points, since USES has a separate table for Indians.

On July 10, the public outcry that followed disclosure of the conversion tables forced then Secretary of Labor Elizabeth Dole to suspend GATB use for a two-year period of study, after which she said she hopes to "reestablish GATB as a state-of-the-art measurement tool by making it more comprehensive and job-related and by minimizing disparities in scores among various groups." Dole seemed to anticipate the invention of some new subterfuge to equalize test results.

Dole's decision to suspend use of the test altogether reeks of political expedience. During its 42 years of use, testing experts have repeatedly found the GATB a valid gauge of job aptitude. The problem, Dole acknowledged, was in the "experimental feature" of within-group scoring. So out went the baby with the bath water.

The adverse impact of race-norming may not stop at blatant reverse discrimination. The ostensibly favored minorities may also be victims, because the system assumes that the causes of group disparities in scores are not poor education and limited opportunities, but race alone.

In the words of Clint Bolick, director of the Landmark Legal Foundation's Center for Civil Rights, race-norming ensures that "we will never address the reasons blacks score at a low level. It sweeps many problems under the rug. It is really a big fraud."

Unfortunately, political forces may allow that fraud to continue. Certainly Dole's remarks make it clear that USES wants to maintain race-based scoring. The two-year moratorium allows the public furor to die down and USES to find a way to make the GATB's racial bias less obvious. After that happens, race-based scoring will probably be reintroduced. And personnel offices may even welcome a race-normed GATB as protection against civil rights suits. When race-normed testing is reinstituted, bureaucrats will sit back and proclaim victory against racial discrimination.

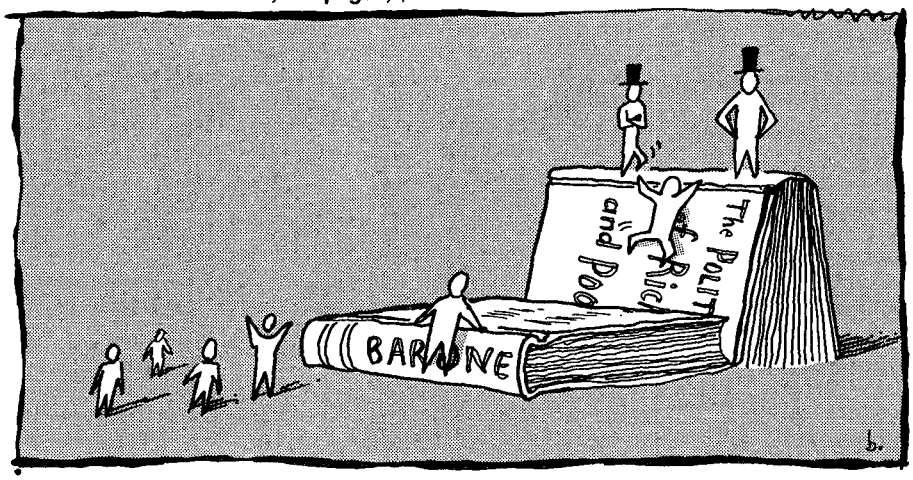
Robert G. Holland is associate editor of the Richmond (Va.) Times-Dispatch.

Our Country, Wrong and Right

BY JOHN A. BARNES

The Politics of Rich and Poor: Wealth and the American Electorate in the Reagan Aftermath, by Kevin Phillips, New York: Random House, 262 pages, $19.95

Our Country: The Shaping of America from Roosevelt to Reagan, by Michael Barone New York: The Free Press, 805 pages, $29.95



BOB ECKSTEIN

In Eastern Europe, the hammers and sickles are coming down as fast as they can be pried loose from their bases. In the Soviet Union itself, police guards have to be stationed around statues of Lenin to prevent them from being sold for scrap.

At a time when one would be hard put to find a Marxist east of the Oder-Neisse line, a putative Republican, employing what he calls a "vaguely neo-Marxist" analysis, has caught the falling flag of class warfare and proudly hoisted it on the ramparts of the nation's capital. Kevin Phillips's *The Politics of Rich and Poor* is the talk of the Washington establishment, which has greeted it rapturously and helped it onto the best-seller lists. Never fear, however. Phillips's watered-down Honeckerism is likely to have as much success as the stronger Eastern European variety, but not without much suffering before the truth emerges.

Phillips knocked the political world on its ear in 1970 with *The Emerging Republican Majority*. He argued that "hot button" cultural issues—race, law and order, militant feminism, abortion, school busing, and others—could pry alienated urban ethnics and white Southerners loose from Roosevelt's New Deal coalition.

Richard Nixon's root canal economic policies prevented him from exploiting Phillips's theory. But oddly, as Ronald Reagan won and governed in the 1980s using Phillips's blueprint with great success, the author himself became increasingly disillusioned with and alienated from the political right.

He also edged further and further away from the hard work of political analysis and closer to the less-taxing pastime of economic prophecy. In his 1982 book *Post-Conservative America*, he predicted the United States would soon resemble Weimar Germany. He followed up in 1984 with *Post-Industrial America*, a clarion call for protectionism and "managed trade," without which utter disaster would soon befall the republic.

There is absolutely nothing new, interesting, or surprising in *The Politics of Rich and Poor*—only the identity of its author. By their blurbs ye shall know them, and Phillips sports two real lulus on the dust jacket: Richard Nixon ("*The Politics of Rich and Poor* will revolutionize the way we talk about politics") and Mario Cuomo ("Every American should read this book").

The arguments are familiar. Reagan's tax cuts and deregulation caused a massive concentration of wealth in the hands of a few super-rich people. The living standards of average people scarcely improved at all in eight years, and the poor grew more numerous. Michael Milken, the mergers-and-acquisitions boom, and Donald Trump are all paraded to receive Phillips's scorn. All this "excess," he asserts, has laid the groundwork for a Democratic "populist" reaction of higher taxes on the rich and more welfare programs for the poor.

The evidence he cites for this apocalypse, however, is almost laughable. The Joint Economic Committee report that supposedly showed a massive concentration of wealth in the hands of a few was discredited years ago.

The JEC report at first showed that the share of income held by the top 1 percent of the population had soared from 25 percent to 35 percent in the Reagan years. In fact, a computing error had caused the dramatic surge. The percentage actually stayed the same.

But even after this correction, the report remains spurious. The data the JEC used to compute income distribution by class from 1922 to 1983 was not a "Federal Reserve Board study," as a Phillips footnote states. It was instead an analysis of studies using a variety of sources and methodologies, many incompatible with one another. Besides, the analysis ends in 1983, only two years

after Reagan's election and at the end of a deep recession. Again and again, Phillips uses reports and studies that began in 1977 or 1978. That's like blaming Roosevelt for Hoover's policies.

Income distribution by class is one of the most difficult economic statistics to compute because income groups are extremely fast-moving targets. *Forbes* magazine reports that it adds about 25 new names to its "400 richest" list every year. So in the last eight years, half the names have been new or have dropped off the list and then come back on. To take just one example, Donald Trump, supposedly the apotheosis of 1980s greed, has plummeted off the list and is besieged by divorce and bankruptcy lawyers.

This freedom to fail is completely missing from Phillips's analysis. *Detroit News* columnist Warren Brookes took on Phillips with statistics from the U.S. Census Bureau, a far less biased source, and showed that while there had indeed been income growth at the top of the scale, more people in middle-income groups moved up one quintile than down. Even a whopping 52 percent of those in the low-income categories saw their incomes increase by 5 percent or more during the past decade. At the top of the scale, as many as 24 percent fell out of the highest income bracket after only one year.

In the end, Phillips produces no real evidence to support his contention that class politics is the key to American politics. Indeed, the absence of class envy—even in the depths of the Great Depression—has always been one of the wonders foreign observers remark upon.

Already the book has had practical effects. New Jersey Democratic Gov. Jim Florio virtually waves the Phillips book as his Bible while he embarks on wildly unpopular tax-raising schemes. The middle-class revolt Florio has ignited as a consequence might make the national Democrats wary of their newfound messiah, but then, donkeys are stubborn animals.

Absent a major economic crisis, cultural issues are often decisive in American politics, something Phillips ought to at least dimly recognize. In 1988, while Phillips was predicting a Michael Dukakis victory, George Bush made Willie Horton a national celebrity and recited the Pledge of Allegiance repeatedly. The take-no-prisoners Phillips of 1970 would have instantly recognized the appeal of those two icons. The 1988 version scarcely noticed.

Cultural issues are the specialty of Michael Barone, co-author (with Grant Ujifusa) since 1972 of the remarkable *Almanac of American Politics* series. *Our Country*, his grand-sweep history of American politics over the last 60 years, is far more worthy of the reader's time and money than Kevin Phillips's rantings. While the book has its limitations, one can be confident that Barone knows his stuff and has left any ideological axes in the closet. He gives us information—too much at times.

Phillips produces no real evidence to support his contention that class conflict is the key to American politics.

In Barone's analysis, the political fault line in America lies, not between rich and poor, but between what he calls the "Yankees" and the "Ellis Islanders" and between Northerners and Southerners. Historically, the people in these groups had fundamentally different views of the country. The Yankees saw politics as an avocation; the immigrants saw it as an occupation. The North was an industrial society. In most of the 19th-century South, a visitor from the Roman Empire would have felt comfortable.

Barone shows that support for far-left, class-based politics actually decreased in the United States during the Great Depression. The vast majority of citizens wanted an economy that created jobs, not one busily redistributing wealth from top to bottom. Flint, Michigan, scene of the great sit-down strikes of 1937, elected Republican members of Congress for 30 years afterward. Individualism and self-help remained popular, though the Republicans were generally unable to figure out how to turn that feeling into political success.

The chapters on the Depression and the Roosevelt era are far and away Barone's best. Curiously, as he moves closer to our own time, the book becomes less interesting. Along the way, however, a great gallery of half-forgotten political figures from the past returns: John Lewis, Joseph Nye, Robert Wagner, Arthur Vandenberg. Barone shows why each was important. He also places in context many policy decisions: Roosevelt did not support Social Security until he became convinced Louisiana's Huey Long might beat him on the issue in 1936.

Barone is the first serious historian, so far as I am aware, to note that Lyndon Johnson's reputation as a political genius is overstated. LBJ understood the South and he understood the Senate, but the ethnic politics of the North baffled him, as did the antiwar movement. Those weaknesses proved his undoing. Barone also documents what ought to be obvious but is usually not commented upon or analyzed: Richard Nixon's extremely liberal domestic social and economic policies, and how their failure probably helped transform Watergate from an embarrassment to a fatal blunder.

The weakness of Barone's book is that, if anything, it is too determinedly middle-of-the-road. Harsh or final judgments are rare. Everyone, it seems, had admirable as well as base motives. Barone never tells us whether he believes the tremendous concentration of power in the hands of the federal government that took place during the course of his story, and the transformation of the Constitution from a document designed to limit government to a license for its endless expansion, were good or bad things.

Still, *Our Country* is a far more convincing tour of the American landscape than *The Politics of Rich and Poor*. It is better documented, and it also has the advantage of being mostly true.

John A. Barnes is deputy editorial page editor of the Detroit News.

The Politics of Poverty

BY LYNN SCARLETT

The New Wealth of Nations, by Guy Sorman
Stanford, Calif.: Hoover Institution Press, 216 pages, $14.00 paper

A thousand Mexicans line up at the U.S. border near Tijuana. Darkness falls. They dart across the imaginary line that separates impoverished Mexico from prosperous San Diego. U.S. authorities, prepared for this mad dash, stop the invaders and usher them into the local border station. After some routine paperwork, these would-be immigrants are returned to Mexico. But before their departure, Dick Cisneros, a U.S. border patrol officer of Mexican heritage, offers a simple sendoff message: "It is because the politicians have fattened that the people are so poor!"

So recounts Guy Sorman, professor of economics at the Institute of Political Studies in Paris, in the prologue to *The New Wealth of Nations*. Cisneros's remark sums up Sorman's thesis as he attempts to understand why some nations remain poor while others, like Taiwan or South Korea, have become economic legends in the last few decades. The Third World, Sorman observes, "is not only mass poverty but...the priority of politics over economics."

Sorman adds substance to this assertion in what is part travelogue, part economic analysis. Not content to probe official documents and scholarly treatises, he embarked on an odyssey around the globe, visiting 18 countries where he interviewed rich and poor, policymakers and peasants. The result is a vivid, if somewhat kaleidoscopic, depiction of the politics of poverty.

Sorman finds little to praise. He criticizes the much-vaunted Chilean model, which weds an authoritarian political regime with an increasingly market-driven economy. Chile, he avers, was right to reject the infant-industry protectionist model made popular by Latin American economist Raoul Prebich in the '60s. But Chile's public sector remains large: "When all is said and done, the economic sway of the Pinochet government is as dominant as that of Allende's; it has even increased in some industrial sectors as the government stepped in to take over private companies unable to stand up to its liberal policies and the [economic] crisis."

The tale is similar in the Ivory Coast. Although its quasi-liberal policies have left it better off than its socialist neighbors throughout sub-Saharan Africa, the country has large pockets of poverty amidst vast wealth accumulated by political bigwigs, most notably President Houphouet-Boigny himself. Sorman points out that agricultural products in the Ivory Coast, as elsewhere in Africa, are marketed through a state monopoly that fixes prices. What distinguishes the Ivory Coast from its neighbors is that its prices are fixed sufficiently high for farmers to earn a living. Furthermore, private property has not been abolished, and foreign trade and investment continued uninterrupted after the nation gained independence in the '60s.

Yet the Ivory Coast also suffers from the policies of state aggrandizement that are rampant in much of the Third World. The result is a growing economic crisis referred to by locals as "the situation." Houphouet-Boigny ordered the construction of a grand capital in his native village, dubbed by Sorman the "folly of Yamoussoukrou," since millions of dollars were poured into creating a virtually uninhabited "ghost capital." Elsewhere in Africa, Sorman notes, we find "senselessly large factories that have been deserted, hospitals without doctors, dams without water, airlines with neither clients nor aircraft, and overequipped armies."

Sorman paints a rather bleak picture for most of the Third World, and his portrait is accurate. Economic development theory over the decades has blamed a series of villains for the Third World's plight. Often, the villain has been wealthy countries, whose riches were thought to flow only from exploitation of poor countries. Capitalism, too, has been vilified. Predictably, the remedies proposed for these "forces of impoverishment" have been heavy doses of state planning, nationalization of industry, protectionism, regulations against foreign investment, high taxation, and redistribution of private (but not public) wealth.

The result, as Sorman describes, has been a rapid growth of state power, enrichment of public officials, some industrialization and economic growth, but continued impoverishment for most Third World inhabitants. In short, the record of these experiments in command-and-control economics has been little better than parallel experiments in Eastern Europe, the Soviet Union, and China.

Had Sorman offered his critique a decade ago, it would have been an exception in the world of development literature. The past decade, however, has seen a blossoming of classical-liberal analysis of Third World development. An ever-widening chorus of scholars has joined the renowned British economist Peter Bauer to argue that free markets, private property, respect for individual initiative, and the rule of law (with limits on state power) offer the best prospects for achieving prosperity. Even among Third World technocrats and economists, privatization and liberalization now figure prominently in the pharmacopoeia of cures for underdevelopment.

Sorman does, however, add some in-

teresting twists to his analysis. Like Hernando de Soto in his path breaking book, *The Other Path*, Sorman directs his attention to the "little guy"—the poor farmer, the driver of an illegal taxi, the artisan in the underground economy. Sorman finds hope for the future in these individuals, if Third World governments would only strip away the myriad regulations and obstructions that deprive them of opportunities.

Sorman is on less firm ground when he recommends remedies than when he criticizes existing policies. In stressing technology as the antidote to hunger in the Third World, he seems to have forgotten his own earlier conclusions about government policy. For example, use of high-yield seeds, in which Sorman places great faith, has not been uniformly successful. Where it has failed to produce the expected results, government policies are often to blame. Thus, in parts of Sri Lanka, government control of irrigation deprives farmers of water applications at essential times, making the traditional seeds more appropriate.

Sorman finds in Taiwan, Singapore, and South Korea important lessons for the Third World, arguing that all successful economies require a strong state. The Pacific Rim countries have enjoyed rapid growth and the diffusion of its benefits to both rich and poor because, he claims, these states provided infrastructure investment, ample public services (including especially strong educational systems), and selective aid to industry in early phases of development.

Sorman also seems to argue that the state should guarantee remunerative prices for agricultural product in order to secure the well-being of a peasant bourgeoisie. He says these policies should be accompanied by protections of individual and property rights, predictable commercial laws, policies that encourage savings, and fiscal responsibility.

Sorman is certainly right to point to the need for a stable rule of law that protects property, contracts, and individual rights. But his praise for policies to support infant industry is problematic. Elsewhere, such as in India or Brazil, Sorman himself notes that infant-industry protection led to some industrial growth, but the benefits from that growth did not percolate through the population. Sorman might argue this is because these states failed to implement the other features of his economic development program, such as extensive education systems, property and contract protection, and deregulation. It's at least equally plausible, however, that infant-industry protection in Pacific Rim countries actually played a minor, or even negative, role in their development.

Sorman's praise for South Korea's industrial policy is somewhat akin to the overemphasis so many industrial-policy advocates have placed on Japan's Ministry of International Trade and Industry. To be sure, MITI made some investments in research and development and assisted some Japanese industries. But the agency played a relatively small role in overall investment decisions in Japan. And MITI sometimes actually served as a barrier to innovation and growth by at first failing to approve import licenses for technology—for example, transistors—that later proved highly profitable in Japan.

Despite his perhaps too-hasty praise for agricultural price supports and infant-industry assistance, Sorman for the most part offers a sound assessment of what ails the Third World. He concludes that the poverty of nations is not inevitable. Rather, it is "the consequence of bad policies based on a false idea. This false idea under various guises is the notion that political leaders and everything that legitimizes them—powerful state, single party, military, public sector enterprises—constitutes progress. Inversely, everything private—the individual, dissidence, the critical spirit—is always backward." These notions, not multinational corporations, capitalism, overpopulation, or inadequate resources, have kept the Third World poor.

Lynn Scarlett is vice president in charge of research at the Reason Foundation.

Lines of Duty

BY JACOB SULLUM

Rush, by Kim Wozencraft, New York: Random House, 260 pages, $18.95

Suppose that cops had to murder people to solve homicides or break into homes to prevent burglaries. Anyone who believes in the rule of law would be appalled by such a state of affairs. Yet in the drug war, it's routine: Police officers must violate the very prohibitions they are enforcing *in order* to enforce them.

This point, so obvious that it's generally ignored, is vividly illustrated in *Rush*, Kim Wozencraft's absorbing novel based on her experiences as an undercover narcotics officer in Texas. Because she understands the realities of the street and is familiar with the nitty-gritty of law enforcement, her implicit critique of the drug war (she now favors legalization) is in many ways more powerful than the arid arguments of academics and policy analysts.

The lawbreaking that Wozencraft describes is distinct from the more-dramatic corruption of cops who are tempted by the vast sums of money involved in the illegal drug trade. It's due instead to the need, in the absence of victims, for police officers to become the complainants by seeking out and purchasing drugs. To maintain credibility (and, in some cases, to save their lives), they have to take drugs as well. Suspicious dealers often insist, sometimes at gunpoint, that customers sample their wares at the time of sale.

Rush's protagonist, Kristen Cates, whose experiences closely parallel the author's, discovers this dirty little secret after joining the police department of a small Texas city. At 21, Kristen is keen to appear tough, but she is unsophisticated about drugs. During her first undercover operation, her partner and soon-to-be lover, Jim, straightens her out when she tries to simulate drug taking: "You'll get

made in a stiff minute. Listen to what I'm saying here. *Simulation* is a word that comes in handy in court. We're out there to buy dope."

Kristen quickly learns to "be anything you have to be to make the case and keep your ass from getting shot." The necessity soon becomes a reward. During and after her first cocaine buy, she snorts some lines with a state agent, who tells her: "It's like this. We're out here risking our lives to keep fucksticks off the streets. But the job has a few fringe bennies." Later Kristen becomes familiar with the effects of a bewildering variety of pills and adept at injecting heroin, cocaine, and methamphetamine—all in the line of duty. The irony of all this is powerful enough that

Wozencraft changed her mind about drug laws after trying to enforce them.

little is needed beyond exposition, but Wozencraft sometimes can't resist underlining the point, as when she intersperses excerpts from her law enforcement oath with candid descriptions of what the job really involves.

Still, Wozencraft's chronicle of her own chemical seduction illustrates a simple truth that is conspicuously absent from most of what passes for drug education: People don't take drugs because they've been possessed by the devil or overpowered by a magical potion. They take drugs because drugs make them feel good. "You can tell yourself you are doing it because you have to, to make the case," Kristen says. "Because it's better than sex or it makes sex better. Because you feel like it today. But no matter what you tell yourself, how you explain it, there's only one reason. You are after the rush."

Given a sufficient reason—a cost high enough to outweigh the benefit—people will stop or curtail their drug use, as Kristen does and Wozencraft did. But what constitutes a sufficient reason varies from person to person. For some people in some situations, almost no reason is good enough.

The more strung out Kristen and Jim get, the more they come to resemble the people they are setting up, the thinner their rationalizations become. At first it's easy for Kristen to imagine that she's putting away schoolyard pushers and other nasty characters. Some of the defen-

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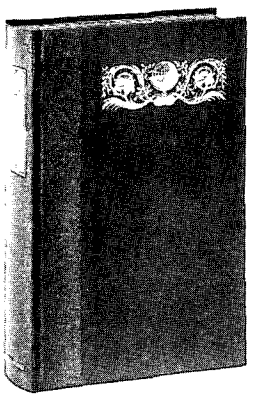

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dants have committed crimes against person and property. But many are guilty of nothing other than ingesting certain chemicals and selling them to Kristen or Jim upon request. Beneath the fog of her growing drug dependency, it dawns on her that there is no moral justification for betraying such people. But the police chief is pushing for more cases, and she and her partner oblige by continuing to entrap smalltime dealers.

Her sense of guilt becomes acute during the "bustout," when the police reel in all the defendants that Kristen and Jim have been building cases against. Witnessing the arrest of a dealer who will later get a life sentence, she says: "He trusted me. They had all trusted me....I hadn't counted on growing close to so many of the defendants. They'd believed I was their friend. I had pretended to be their friend. I felt like a snail, spreading ooze in front of me so that I could slither ahead another inch or so, not really getting anywhere, just going for the sake of moving forward. I sat there wondering if there was any way I could rationalize all one hundred and twelve arrests, knowing that I couldn't."

But while it's easy to incriminate druggies, netting the bigger fish requires some creativity. Under pressure from the police chief, Jim and Kristen fabricate evidence against a pornographer and suspected dealer, which ultimately leads to a bloody reprisal and their own conviction on perjury charges. Wozencraft describes the impact of these experiences, along with the depredations of Jim's and Kristen's addictions, in compelling prose, remarkably free of self-pity or lecturing.

Which is not to say that the book lacks a moral perspective. Accounts of police corruption can too easily turn into excuses for nihilism, not only denying the classification of certain people as good or evil but rejecting the categories themselves. Certainly Wozencraft tears down the distinction between drug users who carry badges and those who don't: "The difference between them and me was that I understood there was no difference."

But she is also firm in her indictment of those who know the score and look the other way, such as the police chief. The real villain of the book, he wants to stay squeaky clean and advance his career while benefitting from other people's dirty work. Wozencraft also has harsh words for the decent, middle-class citizens who demand a war on drugs but don't want to know what it entails.

Kristen describes the attitude she encounters when she tries to tell them the real situation: "This is Texas, not New York City. This kind of thing can't happen here. Leave us alone. We have bills to pay, children to raise; you took the job, now just do what you have to to keep the drugs out. And do it quietly. We don't want to hear about it. The lawn needs edging."

Wozencraft does not shrink from accepting her share of responsibility. Neither in the book nor in the news media (she was profiled by the *Washington Post* and appeared on the "Donahue" show) has she sought to minimize her own crime, for which she served 13 months in federal prison. But the success of *Rush*—the movie rights went for $1 million, unusual for a first novel—will give supporters of drug prohibition an excuse to dismiss her as just another felon seeking undeserved celebrity. They will also suggest that her story is atypical and that no lessons can be drawn from it about the morality of the effort to suppress drug use. They don't want to hear about it.

Jacob Sullum is assistant editor of REASON.

In a Word, No

BY BEN WILDAVSKY

A Future of Lousy Jobs?: The Changing Structure of U.S. Wages, edited by Gary Burtless, Washington, D.C.: The Brookings Institution, 256 pages, $10.95 paper

A shadowy drone holds a wrench in one hand, his neck shackled by a thick chain that extends straight into the air—held tight, no doubt, by some invisible hand. The grim image on the cover of this new release from the Brookings Institution demonstrates at least one marketer's belief that, where American jobs are concerned, misery still sells. So it's reassuring to discover that the worried question mark in the book's title, *A Future of Lousy Jobs?*, is far from perfunctory. The answer given here is no.

This anthology of five papers on changing U.S. wage patterns presented at a March 1989 Brookings conference incorporates a wide array of research findings. Although the various sections—with comments from other labor economists appended—form a disparate, occasionally contradictory whole, a helpful introduction by editor and contributor Gary Burtless, a senior fellow at Brookings, guides the lay reader through what might otherwise seem a morass of economese. The collection would come alive with more vivid, real-world examples of workers and their jobs. But it's interesting for the way the authors at once reject certain conventional notions about what is wrong with the U.S. labor market and suggest some different problems that bear serious consideration.

The author's central premise—one which Burtless achnowledges is not shared by all economists—is that earnings inequality between the high, middle, and low ends of the wage distribution has grown for male workers, particularly in the last decade. To the extent that the rapid rise of wages at the top of the distribution accounts for this trend, it should alarm only those who find the very fact of differences among workers disturbing. The earnings gap, however, also reflects an absolute drop in wages for workers below the median. Robert A. Moffitt, for example, states that the real earnings (in 1982 dollars) of men in the 25th percentile dropped from $9,500 in 1967 to $8,400 in 1987.

Where does the "lousy jobs" thesis fit

in all this? Many have assumed that growing earnings inequality must mean an increase in low-skill, hence low-wage, jobs. But Burtless dismisses this as a "naive view of recent history," saying that if employers were really "creating a disproportionate number of jobs that required few skills and little education, we would anticipate that the wages of less skilled workers would be bid up relative to those received by better skilled, more educated workers." He points out that the exact opposite has occurred in the 1980s. In addition to a growing, baby-boom–driven gap between the wages of older and younger males, the earnings premium for male college graduates "has exploded," leaving less educated men behind.

A paper by McKinley Blackburn, David Bloom, and Richard Freeman gives limited support to the common notion that structural shifts from manufacturing to service jobs have contributed to wage inequality. They find that 20 percent to 30 percent of the earnings losses less-skilled men have experienced can be explained by these kinds of industrial changes. But the overriding importance of education and skills is buttressed by their finding that "about 70 to 80 percent of the increase in the earnings gap between college graduates and high school dropouts from 1979 through 1987 occurred within industries."

Attributing this intra-industry differential to businesses' attempts "to change their production techniques in a way that requires more able and more skilled workers," Burtless arrives at his bottom line. The problem low-skilled men face, he writes, "is not an overabundance of bad jobs, as suggested in the title of this book, but a surplus of unskilled workers in a market requiring more skill than ever."

Since *A Future of Lousy Jobs?* focuses on rising inequality in male earnings, it is important to stress the corollary to this finding: Income inequality among women, Burtless says, is "falling or remaining stable." This brighter picture for women workers, whose labor-force participation rate has risen enormously in the past 20 years and who are increasingly closing the wage gap with men, is amplified in a particularly interesting paper called "Are Part-Time Jobs Bad Jobs?"

Rebecca Blank, a Northwestern University professor currently with the Council of Economic Advisers, finds that while part-time workers overall tend to earn slightly lower hourly wages than those working full-time, the differences are smaller within occupations. In fact, she says, "Women in part-time service jobs actually appear to earn higher average wages than full-time workers." Blank points out that three-quarters of all women working part-time in 1987 were not interested in full-time work. She notes that "part-time jobs fill an important role for many women who desire income and labor market involvement but cannot make a full-time labor market commitment."

The book's most instructive lesson is that there are too many unskilled workers rather than too many bad jobs. Education seems to be the key. Ultimately, this is an encouraging message.

This crucial factor is too often underplayed or ignored in discussions of part-time work. The downside to the benefits of part-time work lies in the poorer fringe benefits such jobs tend to offer. As Burtless points out, this will be more of a problem for single women than for those who already receive such benefits through their husbands' jobs.

Poor benefits may also be a problem for some men. Although far fewer men than women work part-time in the first place, 43 percent of those who do say they would prefer full-time work. This figure has risen during the last 20 years, along with the overall amount of part-time work. The growth in the number of part-time jobs, however, cannot be blamed for male earnings inequality, Burtless says. His paper and another find that "earnings inequality among men has risen because wage inequality has risen, not because there has been a rise in inequality of annual hours of work." This finding, says Burtless, combined with Blank's account of part-time jobs, "should lay to rest many fears about the adverse effects of part-time employment on the quality of U.S. jobs."

In the anthology's final paper, Robert Moffitt pays Charles Murray the peculiar compliment of attempting to refute something Murray never said. Moffitt explores the notion that increased male earnings inequality might have been caused by work disincentives like those Murray has charged the U.S. welfare system with creating. He acknowledges that Murray's *Losing Ground* "does not directly consider the earnings distribution" and cites no one else who has made such a critique. Yet Moffitt proceeds to take great statistical pains to tear apart his own straw man limb by limb.

This exercise is odd. To take one example, Moffitt says that most literature about the effects of transfer programs is "not germane to the issue at hand" since it deals with Aid to Families with Depdendent Children payments received by female family heads. The very fact that most welfare payments go to women, of course, would go a long way toward explaining why no one has proposed holding welfare responsible for male earnings inequality. And Moffitt says that the AFDC program has "had disincentive effects on the work effort of female heads."

Even if Murray's argument about welfare could be related to the changing distribution of wages, Moffitt's elaborate attempt to refute it seems of a piece with other critics' efforts to provide meticulous quantitative documentation showing that welfare does not directly cause illegitimacy and unemployment. Murray has answered such critics by countering that his argument was "expository and speculative" and hardly based on the strict causal model his detractors consider it their duty to rebut. Thus, while Moffitt's paper includes many interesting details, when he says

triumphantly that accelerating earnings inequality growth coincided with declining government transfer growth, he isn't necessarily saying much.

The most instructive lesson of *A Future of Lousy Jobs?* concerns the increasing role education and skills play in determining the fate of American workers. "If the nation has too many unskilled workers rather than too many bad jobs," Burtless writes, "both efficiency and equity will be served by improving the skills of workers now lodged at the bottom." No doubt some will argue that government should take part in this process, and some businesses may also do so in the spirit of enlightened self-interest. But the most encouraging news here is that individuals can exercise a great deal of control over their future in the job market, provided they make the right kinds of choices about their own human capital.

Ben Wildavsky is assistant managing editor of The Public Interest.

"No Place"-Like Homes

BY PAUL HEYNE

Voyages to Utopia: From Monastery to Commune—The Search for the Perfect Society in Modern Times, by William McCord, New York: W.W. Norton, 381 pages, $22.50

For readers (like myself) who learned that *utopia* means "no place," the title *Voyages to Utopia* is thoroughly misleading. The places to which the author takes us in this captivating book are all quite real.

William McCord claims that the *u* in *utopia* doesn't necessarily derive from the Greek *ou*, meaning "no" or "not"; it might also come, he says, from *eu*, which means "well" or "good." He opts for the latter derivation and subsequently takes us to visit a fascinating variety of contemporary experiments in creating a good place to live. The extended tour leads through secular and religious fellowships and communes, socialist states, and—somewhat surprisingly—what the author calls "capitalist utopias."

McCord is a well-known sociologist who, in the course of a long career exploring social problems from delinquency and urban conflict to alcoholism and psychopathy, seems to have made the study of utopian ventures a semiprofessional hobby. He has actually visited each of the utopias he describes and has talked with the people who live there, sounding them out on their experiences, their frustrations, and their hopes. He has also read extensively both in the general literature of utopian experiments and the more specific literature of the ventures he discusses. On top of that, he writes easily and well, almost as if he had never learned the techniques that social scientists commonly employ to reduce all writing to shades of gray.

The Quaker route: Students and teachers pray at a Philadelphia school.

Almost! Beware of the opening chapter, "Prelude to a Journey." After reading its odd combination of personal reminiscence and anticipatory synopsis, I drew a deep breath in preparation for a 350-page ordeal. But the rest of the book is no ordeal at all. Each successive chapter draws the reader quickly into the life and aspirations of the "utopia" with which it deals and communicates a wealth of insight in remarkably few pages. McCord has an eye for the illuminating incident, the revealing statement, the crucial fact, and he knows how to present each of them effectively. Not once did I find myself thumbing ahead to see how far it was to the end of a chapter.

Voyages to Utopia begins in modern Tahiti and then takes us back to the first encounter of Europeans with "the fragrant isle," comparing the myth of a Pacific Eden with the reality of Tahiti both in the 18th Century and now. After that we remain in the contemporary world, traveling through Israeli kibbutzim; a retreat center and a countercultural commune in California; an anarchist commune in France; an Anglican religious order dedicated to serving the poor; the Muslim Brotherhood in Egypt; communities of Gandhians in India; the diverse socialisms of Yugoslavia, Hungary, and China; and the so-called capitalist utopias of Singapore, La Jolla, California, and Denmark, with numerous short side trips along the way to see what can be learned from related experiments.

Each chapter begins by trying to make the new utopia attractive to the reader before turning to the problems it has encountered and the ambiguities of its mission or self-understanding. McCord professes to be in sympathy with all the societies he studies, and with the exception of La Jolla and perhaps the Muslim Brotherhood, I found this stance credible. He does not set up straw men.

But neither is he a misty-eyed observer. He has a clear eye for the tensions and contradictions that develop when social ideals become incarnate, and he portrays them candidly. He also puts on his scholar's suit at appropriate times to discuss the deeper sources of success and failure within the ventures he describes.

McCord is generally a reliable reporter and analyst. He makes minor mistakes, such as giving Clark Kerr credit

ROSEMARY RANCK

on three occasions for developing the Physical Quality of Life Indexes that Morris David Morris actually developed and that Kerr merely uses. But in those areas where my own knowledge was sufficient to permit an assessment, I was impressed by the depth of McCord's understanding.

It is testimony to the quality of his analysis that he could send to the publisher in 1988 a manuscript containing sizable sections on the "Marxist utopias" of Hungary and China for which he does not have to apologize today. Were he writing those chapters now, he would want to update them, but there is very little he would have to rewrite. While McCord did not predict the dramatic changes that occurred in these countries in 1989, his analysis points clearly to the problems that precipitated them.

REASON readers will be especially curious about the "capitalist utopias" McCord discusses. The only utopia with which the author seems to have no sympathy whatsoever is La Jolla, a wealthy and exclusive enclave near San Diego. But La Jolla also doesn't fit the criteria he claims in the first chapter to have used in selecting utopias to examine. The residents of La Jolla surely did not move there with any intention "to better the condition of all mankind."

Denmark follows La Jolla, and after reading well into the chapter on Denmark I began to suspect that McCord had set up La Jolla as a horrible example of superficiality and selfishness in order to reveal Denmark's "social democracy" as the best alternative around. But my suspicions were unfounded. He does not find the answer in Denmark, either. McCord shows how the rights to welfare that the state has created for its citizens have begun to undermine creativity and personal responsibility, with consequences that now alarm many Danes.

Those who wish to argue with the author will find ample opportunity in the concluding chapter, "Some Cautious Reflections." It's clear McCord has not adequately understood some of the differences between bureaucracies and markets. He caricatures Adam Smith and fails fully to appreciate F.A. Hayek. But these are relatively minor quibbles.

The book contains valuable counsel for those who forget that social visions must find institutions capable of receiving them, and even more valuable counsel for those who will not read this book or any like it because they are too busy trying to create such institutions by force. But McCord also reminds libertarians of the great variety of yearnings and temperaments that must be satisfied in any enduring society.

Paul Heyne is a senior lecturer in economics at the University of Washington, Seattle.

The Good, the Bad and the Famous, by Len Sherman, New York: Lyle Stuart, 218 pages, $18.95. Is this any way to run a country? That's the question Len Sherman asks in *The Good, the Bad and the Famous.* His implicit answer is no.

Sherman looks at the growing attempts by celebrities to influence public policy. Hollywood long has been an important source of money for politicians, particularly those on the far left of the Democratic party. But in recent years, movie stars have begun to place conditions on the money they grant. They want to be heard. Groups such as the Hollywood Women's Political Committee have formed to shape the political agenda. In return for star-studded fundraisers, the HWPC demands that politicians listen to its views on which issues are important and which positions are correct.

The problem with all of this isn't just that all of these celebrities are somewhere to the left of Mao. No, the real problem is that they are all a bunch of ninnies.

Sherman has spent considerable time with some of the most active celebrities, and he recounts some of the lengthy conversations he had. A few stars—most notably Ed Asner, John Randolph, and Charlton Heston—ably explain and defend their ideas. But the statements of most of Sherman's celebrities could lead one to believe that the L.A. smog destroys brain cells.

Consider Jane Fonda's speech at a HWPC benefit for pro-choice candidates: "It's been very special. And it's special to be from a town, Hollywood, in which some very prophetic words were said by Joan Crawford: 'No more wire hangers!' " Or Morgan Fairchild's explanation of why she was qualified to appear before a Senate committee and discuss an environmental bill: "As an actress, I have spent most of my professional life in dramatic situations which imitate real life. I have become increasingly sensitive to human interaction in a world that is increasingly crowded."

But both of those women appear to be geniuses when compared to Brat Packer Judd Nelson. Asked if people still believe in the traditional institutions of American society, Nelson responds, "It seems that to protect the status quo as opposed to the tremendous gains in public participation in what's considered a democracy, the threat to those in charge of the status quo then pushed into a 'Me Generation' in the 1970s, which, in effect, destroyed every institution that we had. People don't believe in the Supreme Court. Now it's up to Sandra Day O'Connor; she's going to be the deciding vote. The eight men are split, right, so she's going to cast the deciding vote because she's a woman. She has lots of kids, so she's like a great, great mother of the nation. You know. We don't believe in family. More than fifty percent of marriages fail. We don't believe in government anymore. We had a President on the verge of being impeached. He got a pardon by the next joker, who lowered the speed limit." The man not only acts with his nostrils, he apparently thinks with them as well.

The one real weakness with Sherman's book is that it never gets beyond the anecdotes. Ultimately, he never answers the important questions: Why is Hollywood so left-wing? Why does America continue to give a soapbox to bimbos with a cause? And did Jane Fonda really have a boob job? Inquiring minds want to know.

Still, Sherman has performed a valuable service just by retelling his stories. Lest we ever forget, he reminds us that these people may be young, and they may be beautiful, but collectively they don't have the brains God gave a chipmunk.

—Charles Oliver

CHILD'S PLAY

BY THOMAS W. HAZLETT

Direct mail hucksters boast that a helpless child's picture is worth a thousand bucks. Nothing jump-starts an adult's protective rush like "the children." For "the children," adults will sacrifice more than money—even sacred liberties protected by the U.S. Constitution.

Congress has just enacted a measure directing the Federal Communications Commission to assess the effect of a television station's programming upon *the children* before renewing its broadcast license. The law also caps the amount of advertising on kids' shows at 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.

President Bush allowed the bill to become law without his signature. Of course, Bush has no principles—on principle. His own press statement on the legislation solemnly warned, "The First Amendment...does not contemplate that Government will dictate the quality or quantity of what Americans should hear. Rather, it leaves this to be decided by free media responding to the free choices of individual consumers." Voilà! Having castigated the law as detrimental to the very freedoms we Americans hold dear, the president vacated his oath of office and allowed this assault on the Constitution to become the law of the land.

The Washington-swell for the law was bodysurfed by teachers' unions, religious orders, and health-care professionals—along with the National Association of Broadcasters. The designated spokesperson was Peggy Charren, of a lobbying group called Action for Children's Television, who so adroitly summed up the *realpolitik*: "There was no constituency for a veto." Mr. Madison a nobody, Ms. Charren?

Just moments before the vote, cocktail-hour freedom fighters were beefing about David Souter's ostensible softness regarding individual protections implicit in the Bill of Rights. But these limousine libertarians drew a huge collective blank while the Congress voted explicitly to regulate the content of electronic publishers.

"I'm just appalled at the way Judge Souter refuses to reassure Americans about his firm commitment to an American's right to privacy, found right there if you read between the lines in that Fourth Amendment. Oh, yes, wouldn't it be swell to give federal regulators more discretion over what television producers tell our impressionable young people." Congress shall make no law...abridging freedom of speech, or of the press? (Between those lines: Except, of course, where creep "the children"!)

The Lucifer lurking in this censorship coalition is the NAB. Even Beltway bubbleheads with the golly-gee-whiz gullibility of a Jimmy Carter could ID this mischief. The legislation limits the amount of commercial time that stations can sell. If the broadcast competitors ran this pooling arrangement on their own, they'd bump into quite another body of law: Sherman Antitrust, Section 1. Indeed, just a decade ago the Justice Department's Antitrust Division knocked out a previous NAB collusion: the networks' Family Hour agreement not to start the T and/or A until 8 P.M. (when adults, presumably, stood a better chance of enjoying it in peace). But get the feds to police the conspiracy themselves, as the Good Government activists have done for the NAB, and your cartel is (a) legal; and (b) a hero to America's youth!

While broadcasters regulated according to "public convenience, interest, or necessity" quiver when making this rudimentary point, the reason for having a Bill of Rights that cuts government off at the pass is that lots of well-meaning PTAers, not to mention political ruffians on the order of a Lyndon Johnson or a Richard Nixon, will want to shave the prerogatives of those possessing "no constituency for a veto." The slick skids this censorship legislation coasted upon reveal the delicate nature of fundamental freedoms that fail to make the interest group Top 40.

There is no trade-off of repression of choice for quality of output. Federal supervision of television has proceeded since the very first yawn to a test pattern, yet all the equal-time, fairness-doctrine, and public-interest licensing rigmarole has secured are artificially imposed scarcity of media, mediocrity in product of Geraldoesque proportions, timidity in news gathering, hack favoritism in awards, and political whack-a-rounds at license-renewal time. Even the classic fairness-doctrine legal precedent, *Red Lion* v. *FCC* (1969), turns out (unbeknownst to the High Court that decided it erroneously) to have sanctioned Kennedy-Johnson harassment of right-wing radio broadcasters—via expensive fairness-doctrine license challenges—in a calculated campaign to shut up political dissenters.

Tots plugged into Saturday TV will be no more protected from flaky 'toons by FCC monitoring than adults have been shielded from Sam Donaldson in prime time. But don't expect to see exclusive footage of regulatory failures and abuses on "Live at Five," so long as federal marshals keep their fingers on the "off" switch. Which is precisely why all speech—printed, beamed, wired, or uttered—merits protection by the First Amendment's remote control.

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis. This year he is a visiting scholar at Columbia University.

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—Lord Byron

ESSAY

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- J. M. Coetzee, *The Return of the Barbarians*
- Robert Heinlein, *The Moon Is a Harsh Mistress*
- Ken Kesey, *Sometimes a Great Notion*
- Milan Kundera, *The Unbearable Lightness of Being*
- Ayn Rand, *Atlas Shrugged*

Essays should deal with the *ideas* in the novel, although form, characterization, trope, metaphor, etc., may be discussed relative to the author's development of ideas.

SELECTION OF WINNERS

Essays will be judged on the following criteria:

- quality of writing (clarity, organization, style, etc.)
- persuasiveness
- grasp of theme
- demonstrated understanding of selected work

RULES

1. Entrant must be an undergraduate student at an accredited university during the 1990-91 school year.
2. Essay must be no less than 2,000 words and no more than 3,000 words.
3. Essay must be the work of a single individual.
4. Essay must be submitted in English, typewritten, double-spaced.
5. Entry must include a cover sheet providing the student's **name**, **mailing address**, **date of birth**, **school**, **major**, **year of graduation**, and **career interests**.
6. Decisions of the judges are final. The Review Committee reserves the right not to award a prize.

DEADLINE

Entry must be postmarked by **March 1, 1991**, or sent by overnight carrier for delivery by March 7.

Submit completed entry, with cover sheet, to Fiction Essay Contest, Institute for Humane Studies, George Mason University, 4400 University Dr., Fairfax, VA 22030-4444. To verify receipt of your entry, include a stamped, self-addressed postcard or envelope.

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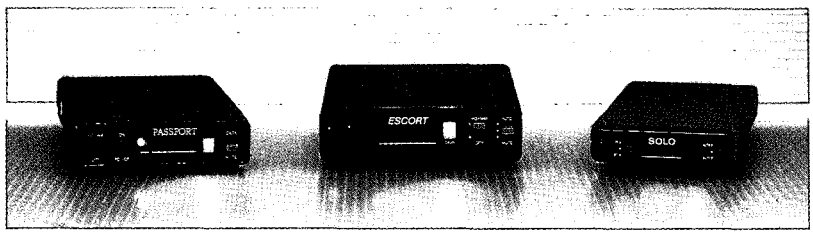

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